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16 **UNITED STATES DISTRICT COURT**

17 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

18 CORY SPENCER, an individual;
19 DIANA MILENA REED, an individual;
20 and COASTAL PROTECTION
21 RANGERS, INC., a California non-profit
22 public benefit corporation,

23 Plaintiffs ,
24 v.
25 LUNADA BAY BOYS; THE
26 INDIVIDUAL MEMBERS OF THE
27 LUNADA BAY BOYS, including but
28 not limited to SANG LEE, BRANT
BLAKEMAN, ALAN JOHNSTON
AKA JALIAN JOHNSTON, MICHAEL
RAE PAPAYANS, ANGELO
FERRARA, FRANK FERRARA,
CHARLIE FERRARA, and NICOLAS
FERRARA; CITY OF PALOS
VERDES ESTATES; CHIEF OF
POLICE JEFF KEPLEY, in his
representative capacity; and DOES 1-10,

Case No.: 2:16-CV-2129-SJO-RAO
Assigned to Courtroom: 10C
The Honorable S. James Otero

Magistrate Judge:
Hon. Rozella A. Oliver

**JOINT STIPULATION RE
DISCOVERY PROPOUNDED BY
DEFENDANT BRANT BLAKEMAN
TO PLAINTIFFS [L.R.37-2.1]**

**Discovery Cut-Off
Date: 8/7/17
Pretrial Conf. Date: 10/23/17
Trial Date: 11/7/17**

Defendants.

NB: With identical discovery and virtually identical responses to and from each Plaintiff, a consolidated stipulation as to all discovery is agreed to by the parties.

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1. **DEFENDANT BLAKEMAN'S INTRODUCTORY STATEMENT**

On March 29, 2016 Plaintiffs Cory Spencer, Diana Milena Reed, and Costal Protection Rangers, Inc., (collectively "Plaintiffs") filed a complaint against various defendants including Brant Blakeman ("Blakeman"). (See Doc. 1 [Complaint].) The complaint alleges, *inter alia*, Blakeman is part of a gang called the Lunada Bay Boys, he is part of a Civil Conspiracy, and that a class should be certified against him and the Lunada Bay Boys under Fed. R. of Civ. P. 23. (See Id., ¶¶ 4- 7 , ¶¶ 51- 53 ¶¶ 30-42 .) Each Plaintiff alleges causes of action against Blakeman for Bane Act violations, Public Nuisance, Assault, Battery, and Negligence. (See Id., ¶¶ 43- 50, ¶¶ 54-60, ¶¶ 95- 98, ¶¶ 99- 101, ¶¶ 102- 106.)

A Rule 26 meeting occurred on August 5, 2016. (Doc. 106 [R. 26 Joint Report], pp. 2:23-4:3.) Despite this case being a class action plaintiff's took the position that discovery should generally not be expanded beyond the standard confines in the Federal Rules, including not phasing discovery between class and merits discovery. (See Id., pp. 7:6- 9:18.) The scheduling order does not modify rules regarding discovery and the parties were expressly reminded of their obligations under Fed. R. Civ. P. 26-1(a) to disclose information without a discovery request. (See Doc. 120 [Minutes RE Scheduling Conference].)

Plaintiffs' initial disclosures were served as a collective response on August 19, 2016 and they disclosed 116 witnesses. (See Ex. 1 [Plaintiffs' Initial Disclosures]. pp. 3:6-17:28.) Plaintiffs refused to disclose the subject of the information discoverable from 77 non party witnesses. (See Ex. 1 pp. 3:6-17:28 [Witnesses Nos. 11, 12, 15-91] .)

On September 2, 2016 Blakeman sent a letter to Plaintiffs addressing their failure to adequately provide discoverable information and requesting a meeting under Local Rule 37-1. (See Exhibit 2 [Sept. 2, 2016 Letter].) Plaintiffs responded on September 7, 2016 and indicated they would not comply with the time requirements of Local Rule 37-1. (See Exhibit 3 [Sept. 7, 2016 Email].) This

1 was despite plaintiffs being represented by two law firms, and one which appears
2 to have more than 150 attorneys. (<https://www.hansonbridgett.com/Our->
3 [Attorneys.aspx.](#))

4 On September 9, 2016 Blakeman responded to Plaintiffs.(See Ex. 4 [Sept. 9,
5 2016 Letter].) Plaintiffs refused to have L.R. 37-1 conference until September 14,
6 2016 and refused to meet in person. Plaintiffs agreed to supplement the
7 disclosures by September 23, 2016. They failed to do so. They then
8 acknowledged the failure and promised to send them by September 30th. (See Ex
9 5, Sept. 28, 2016 email.) They failed again. Plaintiffs' supplemental disclosures
10 were not sent until Sunday October 2, 2016. (See Ex. 6, pp. 31:19-32:8 [Plaintiffs'
11 Supplemental Disclosures].) The supplemental disclosures indicate only one non-
12 party witness who may have knowledge as to Blakeman. (See Id., pp. 19:16-21
13 [Witness No. 60, Ken Claypool].)

14 During the dispute over the disclosure Blakeman propounded on each
15 plaintiff the same 12 interrogatories and 12 production requests on September 16,
16 2016. (See Ex. 7 [Interrogatories] and Ex. 8 [Request for Production].) The
17 discovery requests seek the identity of witnesses, the facts believed to be within
18 that witnesses knowledge, and the production of documents that support specific
19 contentions in Plaintiffs' complaint against Blakeman.

20 While the discovery was pending Plaintiffs noticed and rescheduled
21 Blakeman's deposition for November 10, 2016. On October 20, 2016 Plaintiffs
22 mailed their discovery responses from their counsel's San Francisco and
23 Sacramento offices. (See Ex. 9 [Plaintiffs' Responses to Interrogatories] and Ex.
24 10 [Plaintiffs' Responses to Production Requests].) The interrogatory response
25 contained only objections and the responses to the production requests did not
26 include the production of any documents despite Plaintiffs' affirmation that
27 documents would be produced. (See Ex. 9 [All Interrogatories] and Ex. 10
28 [Request Nos. 1-5 and 7-9].)

1 On October 28, 2016 a meet confer letter was sent to Plaintiffs' counsel Kurt
2 Franklin as his office had signed and served Plaintiffs' discovery responses. (Ex.
3 11 [Oct. 28, 2016 Letter].) In the letter the merits of the objections were
4 addressed, further responses were requested, documents were requested to be
5 produced, the letter in no uncertain terms indicated Blakeman's deposition will not
6 go forward until the dispute was resolved, *and a meeting was requested pursuant*
7 *to Local Rule 37-1.* (Id.) Mr. Franklin has never responded directly to this
8 correspondence nor have any of the 150 or more attorneys at his law firm.

9 Plaintiffs' counsel in Los Angeles, Mr. Otten, on November 1, 2016
10 indicated he was not willing to take Blakeman's deposition off calendar, was in
11 trial, was willing to meet after Blakeman's deposition, and would respond to the
12 contention in writing at a later time. (Ex. 12., Nov. 1, 2016 email from Otten].)

13 On November 7, 2016, 10 days after Blakeman's meet and confer letter was
14 sent, Blakeman again sent a letter detailing Plaintiffs' discovery abuses including
15 withholding of discoverable information by Plaintiffs and the discovery delays
16 caused by Plaintiffs. (See Ex. 13 [Nov. 7, 2016 Email and Letter].)

17 Later that same day, and after Blakeman's correspondence was sent by email
18 to Plaintiffs, Plaintiffs responded to Blakeman's October 28, 2016 letter refusing to
19 identify witnesses or further respond to the interrogatories and referencing their
20 having dumped 2000 pages of documents on Friday November 4, 2016 on the
21 parties. (See Ex. 14 [November 7, 2016 Email and Letter].) The dumped
22 documents referenced are not identified as responsive to the discovery.

23 The dispute comes before the Court because by Plaintiffs' stalling non-
24 compliance with Local Rule 37-1 and FRCP 37, Blakeman is prejudiced in his
25 defense, and he seeks an order compelling the discovery, and costs from this Court.

26 **2. PLAINTIFFS' INTRODUCTORY STATEMENT**

27 The Plaintiffs brought this lawsuit to stop a gang known as the Lunada Bay
28 Boys from excluding people from accessing and using a public beach called

1 Lunada Bay located in Palos Verdes Estates. The Complaint alleges that for 40
2 years, the Lunada Bay Boys – which includes the individually-named Defendants –
3 have used illegal means, such as assault, threats, vandalism, and intimidation, to
4 block non-local beachgoers from accessing the beach and Lunada Bay.

5 This discovery dispute involves individual Defendant Brant Blakeman's
6 improper and premature discovery requests. Plaintiffs filed the Complaint on June
7 16, 2016. The parties first met and conferred to discuss case management in this
8 matter pursuant to Fed. R. Civ. P. 26(f) on August 5, 2016, prior to the Scheduling
9 Conference on August 29, 2016. Discovery first commenced on September 11,
10 2016, just two and a half months ago. The discovery cut-off is more than eight
11 months away, on August 7, 2017. Plaintiffs' last day to file a Motion for Class
12 Certification is December 30, 2016, and trial is set for November 7, 2017.

13 Discovery is in its early stages. Defendants have over 8 months to propound
14 discovery, including requests about contentions. Contention discovery is
15 appropriate when discovery is "substantially complete." *See* Fed. R. Civ. P.
16 33(a)(2). Thus, Defendants' discovery and the instant motion are premature.

17 Additionally, to date, none of the individual Defendants have produced a
18 single document in discovery – either pursuant to their initial disclosures or in
19 response to requests for production of documents. In fact, Mr. Blakeman identified
20 in his initial disclosures that he is in possession of two videos but has failed to turn
21 them over to Plaintiffs. One of these videos relates to an incident involving
22 Plaintiff Diana Reed and Defendants Alan Johnston and Blakeman, and is
23 described in the Complaint. On November 21, 2016, Plaintiffs deposed Mr.
24 Blakeman (who had to be ordered by this court to appear for his deposition)
25 without the benefit of having viewed this video. This is significant because Mr.
26 Blakeman is seeking to compel Plaintiffs' responses to contention interrogatories
27 but, as set forth above, he is in control of much of the evidence needed to respond.
28 ///

1 Improper Procedure and Insufficient Meet and Confer Attempt

2 On September 16, 2016, Mr. Blakeman served identical Interrogatories and
3 Requests of Production of Documents on Plaintiffs Cory Spencer, Diana Milena
4 Reed, and the Coastal Protection Rangers. While this discovery contained requests
5 that were objectionable in many respects, most significantly, it was premature
6 because they sought or necessarily relied upon a contention. On October 20, 2016,
7 Plaintiffs served timely objections and responses, and indicated that a production
8 with non-privileged, responsive documents would be forthcoming.

9 On October 28, 2016, Mr. Blakeman's counsel, Richard Dieffenbach, sent a
10 letter regarding Plaintiffs' discovery responses. (Decl. Otten, **Exh. A.**) In his
11 letter, Mr. Dieffenbach improperly correlated the dispute over Plaintiffs' discovery
12 responses with Mr. Blakeman's obligation to appear for his deposition and refused
13 to produce Mr. Blakeman for his properly-noticed deposition on November 10,
14 2016. Mr. Dieffenbach also requested a conference pursuant to L.R. 37-1.

15 On Tuesday, November 1, 2016, counsel for Plaintiffs, Victor Otten, replied
16 to Mr. Dieffenbach via email to remind him of Mr. Blakeman's obligation to
17 appear for his deposition. Mr. Otten also stated, "because I'm in trial, I'm not
18 available to meet on the ancillary meet-and-confer request on Plaintiffs' responses
19 to Mr. Blakeman's deficient written discovery requests. I should be able to meet
20 with you on this next week – perhaps we could meet after Mr. Blakeman's
21 deposition." (Decl. Otten, **Exh. B.**)

22 Importantly, despite Mr. Otten's offer for an in-person meeting, Mr.
23 Blakeman's counsel made no attempt to schedule the conference, per L.R. 37-1.
24 (Decl. Otten, ¶ 4.) Defendant's counsel could have arranged an in-person or
25 telephonic conference with Mr. Otten, or a telephonic conference with Plaintiffs'
26 Bay Area counsel at Hanson Bridgett LLP, but requested neither. (*Id.*, ¶ 4.)

27 On November 4th, Plaintiffs produced 2,029 pages of responsive documents
28 and media files. (*Id.*, ¶ 5.) Mr. Blakeman refers to this production as a "document

1 dump." The nature of his complaint is unclear, though ironic given his instant
2 motion to compel documents. Of these files, 1,866 were documents previously
3 produced by the City pursuant to a Public Records Act request. (*Id.*)

4 On November 7, 2016, Mr. Otten wrote to Mr. Dieffenbach and reminded Mr.
5 Blakeman of his obligation to appear at his deposition and articulated the legal basis
6 for Plaintiffs' objections to Mr. Blakeman's discovery. (*Id.*, **Exh. D.**) Still, Mr.
7 Blakeman's counsel made no effort to schedule a conference as required by L.R. 37-
8 1. (*Id.*, ¶ 7.) Instead, on November 14th at 1:08 PM, less than one hour before the
9 telephonic hearing for Mr. Blakeman's ex parte application for a protective order to
10 prevent his deposition, Mr. Blakeman's counsel's office sent an email with his
11 portion of this Joint Stipulation. (*Id.*, **Exh. E.**) To date, Mr. Blakeman's counsel has
12 still failed to schedule a conference about the issues underlying the instant motion,
13 and instead, is wasting the Court's resources with the instant motion.

14 **Relief Requested**

15 Defendant Blakeman's requested relief is improper because contention
16 interrogatories are premature at the initial stages of discovery, particularly in the
17 context of class action litigation. Further, much of the evidence necessary to
18 respond to his contention interrogatories is within the individual Defendants'
19 custody or control, and they have refused to produce any documents to date.
20 Additionally, Plaintiffs do not believe that any relief is necessary with respect to
21 Blakeman's requests for production given Plaintiffs' November 4th production.

22 In light of Blakeman's continued abuse of the discovery process, Plaintiffs
23 respectfully ask that this Court deny his requests for reimbursement of his
24 attorneys' fees, and instead order him to compensate Plaintiffs' counsel for their
25 fees and costs incurred in connection with this instant, needless dispute. Plaintiffs
26 are entitled to recover their reasonable expenses. Fed. R. Civ. P. 37(a)(5).

27 ///
28 ///

1 3. **SPECIFICATION OF THE ISSUES IN DISPUTE, AND THE**
2 **PARTIES' CONTENTIONS AND POINTS AND AUTHORITIES**
3 **WITH RESPECT TO SUCH ISSUES INTERROGATORIES**

4 1. IDENTIFY ALL PERSONS that have knowledge of any facts that
5 support your contention that BRANT BLAKEMAN participated in any way in the
6 "commission of enumerated 'predicate crimes'" as alleged in paragraph 5 of the
7 Complaint , and for each such PERSON identified state all facts you contend are
8 within that PERSON's knowledge.

9 **Plaintiffs' Response to Interrogatory #1**

10 Responding party objects to this interrogatory as unduly burdensome,
11 harassing, and duplicative of information disclosed in Responding Party's Rule
12 26(a) disclosures and supplemental disclosures. Propounding Party may look to
13 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
14 information sought by this interrogatory. Moreover, Responding Party had the
15 opportunity to depose Mr. Spencer on this topic.

16 Responding party further objects to this interrogatory as compound. This
17 "interrogatory" contains multiple impermissible subparts, which Propounding
18 Party has propounded in an effort to circumvent the numerical limitations on
19 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

20 Responding Party further objects to this interrogatory on the grounds that it
21 seeks information that is outside of Responding Party's knowledge.

22 Responding Party further objects to the extent that this interrogatory invades
23 attorney-client privilege and/or violates the work product doctrine by compelling
24 Responding Party to disclose privileged communications and/or litigation strategy.
25 Responding Party will not provide any such information.

26 Responding Party further objects to this interrogatory as premature. Because
27 this interrogatory seeks or necessarily relies upon a contention, and because this
28 matter is in its early stages and pretrial discovery has only just begun, Responding

1 Party is unable to provide a complete response at this time, nor is it required to do
2 so. See *Kmiec v. Powerwave Techs. Inc.* et al., 2014 WL 11512195 (C.D. Cal.
3 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
4 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may
5 order that [a contention] interrogatory need not be answered until designated
6 discovery is complete, or until a pretrial conference or some other time.”).
7 Based on the foregoing objections, Responding Party will not respond to this
8 interrogatory at this time.

9 **Defendant Brant Blakeman’s Contention**

10 The Interrogatory seeks witness information pertaining to any and all
11 persons who plaintiffs claim support a specific contention made against Brant
12 Blakeman in his personal capacity, not as a member of a group but as an
13 individual.

14 The interrogatories at issue merely seek the identification of witnesses and
15 the identification of the facts believed to be within those witnesses knowledge
16 purportedly supporting plaintiffs’ specific allegations against Mr. Blakeman in his
17 personal capacity.

18 The discovery requests defined "BRANT BLAKEMAN" as follows:

19 BRANT BLAKEMAN means only Brant Blakeman in his
20 individual capacity. This definition expressly excludes
21 Brant Blakeman as an alleged member of what plaintiff
22 alleges are the "Lunada Bay Boys." This definition
23 expressly excludes the actions or omissions of any other
PERSON other than Brant Blakeman in his individual
capacity. This definition expressly excludes acts of
PERSONS other than Brant Blakeman that plaintiff
attributes to Brant Blakeman under a theory of Civil
Conspiracy.

24 Failure to produce the information sought by the Interrogatory is intended
25 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
26 Plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
27 hoping to take while he is unprepared in his defense to plaintiffs' contentions
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1 against him.

2 The response offers only uniform boilerplate objections. Based on those
3 objections, the response asserts that no answers to the requests will be provided.
4 Because the objections are unmeritorious, a further, substantive response must be
5 compelled.

6 **1. Undue Burden, Harassment, and Duplication**

7 Plaintiff contends that identifying the witnesses to the claims against Mr.
8 Blakeman is unduly burdensome and harassing and the information can be found
9 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
10 identify only one witness with potential knowledge concerning Mr. Blakeman,
11 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
12 presented by this Interrogatory, then it certainly strains reason that answering it is
13 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
14 did some act those witnesses likewise should be identified.

15 This objection by plaintiff is not a justification to refuse to provide a
16 response to the interrogatory.

17 **2. The Interrogatory is Compound and has Subparts**

18 Plaintiff contends the Interrogatory is designed to circumvent the numerical
19 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
20 The Interrogatory seeks the identification of a witness and the facts within that
21 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
22 "discrete subparts." Seeking the identification of witnesses and the facts within
23 their knowledge are considered one interrogatory. (See *Chapman v. California*
24 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
25 mathematical exercise, even were one to entertain the contention that the
26 Interrogatory did not contain discrete subparts, there are only two: 12
27 interrogatories multiplied by two equals 24, which is within the limits of FRCP
28 Rule 33 which allows for 25 interrogatories.

1 This objection by plaintiff is not a justification to refuse to provide a
2 response to the Interrogatory.

3 **3. The Interrogatory Seeks Information that is Outside of**
4 **Responding Party's Knowledge**

5 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
6 knowledge. This objection either wholly lacks merit or there are very troubling
7 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

8 How is it that plaintiff can bring such egregious allegations without some
9 personal knowledge of witnesses who will support the allegations (including the
10 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
11 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
12 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
13 that support allegations, the response should merely state there are none.
14 Otherwise the witnesses should be identified.

15 This objection by plaintiff is not a justification to refuse to provide a
16 response to the Interrogatories.

17 **4. The Interrogatory Invades the Attorney Client Privilege and**
18 **Attorney Work Product Doctrine**

19 Plaintiff objects that identifying witnesses and the facts within a witnesses
20 knowledge that supports allegations that Mr. Blakeman acted in some manner
21 invades the attorney client privilege. There is no legal support for withholding
22 witnesses identities based on the attorney client privilege. Personal knowledge
23 about facts are not privileged. "[T]he protection of the privilege extends only to
24 communications and not to facts. A fact is one thing and a communication
25 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
26 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

27 This objection by plaintiff is not a justification to refuse to provide a
28 response to the Interrogatory.

1 **5. The Interrogatory is Premature as a Contention Interrogatory**

2 Plaintiff alleges the Interrogatory seeks a contention and due to the early
3 state of litigation and pre-trial discovery, responding party is unable to provide a
4 complete response and, in any event, it is required to so; citing to *Kmiec v.*
5 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
6 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
7 2014) at *1-2.; and FRCP Rule 33(a)(2).

8 While this is an argument that contention interrogatories can be delayed, the
9 subject interrogatories do not fall into that context; the responding party is the
10 party making the allegations, not the one responding to the allegations.

11 This action involves plaintiffs (bound by their own pleading) in their
12 individual capacities, as well as representative capacities, alleging intentional torts,
13 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
14 Blakeman which each of these plaintiffs make include accusation of involvement
15 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,
16 rape and similar egregious crimes. Having made these allegations Plaintiffs must
17 have some idea of the witnesses, documents or facts to support the allegations.
18 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

19 No substantive responses are provided. It is likely that no basis exists for
20 these allegations against Mr. Blakeman; he is entitled to know the basis before
21 facing a deposition by ambush.

22 Plaintiffs’ refusal is fatally flawed in any event. The cases cited are
23 inapposite.

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1 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that
2 asking contention interrogatories to a shareholder plaintiff early in litigation
3 required more time for the litigation to develop. Such is not the case with the
4 issues involved in this litigation, where Plaintiffs each claim to represent a class of
5 people and make specific allegations against Mr. Blakeman for which (if pled
6 honestly) Plaintiffs alone have the supporting facts.

7 *Folz* related to contention interrogatories on defendant's affirmative
8 defenses; something that clearly would involve significantly more discovery to
9 develop than is the situation here where defendant is simply seeking information
10 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
11 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
12 committed some act. This information will allow Mr. Blakeman to depose such
13 persons and to have a "just, speedy, and inexpensive determination [in this]
14 action." (FRCP Rule 1.)

15 The identification of witnesses is important not only to Mr. Blakeman's
16 defense but also because they would contribute meaningfully to narrow the scope
17 of the issues in dispute, set up early settlement discussions, and expose the
18 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*
19 *Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
20 are important in assessing whether it would be appropriate for the early use of
21 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,
22 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
23 Rule 56 motions as there appears to be no evidence supporting the causes of action
24 against him. It also appears that there is a lack of evidence to even support
25 probable cause to pursue an action against him and a Rule 11 motion is likewise
26 being considered. The discovery is thus also intended to ferret out what appears to
27 be baseless character assassination.

28 *In re Convergent Technologies Securities Litigation* recognized the

1 importance of the identification of witnesses as a type of contention interrogatory
2 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
3 frame work it provides related to contention interrogatories, also noted that the
4 frame work does not apply to the identity of witnesses with knowledge of the facts
5 giving rise to the litigation or documents supporting material factual allegations.
6 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
7 litigation. (Id. 108 F.R.D. at 332-333).

8 The *In re Convergent Technologies Securities Litigation* frame work to be
9 applied to contention interrogatories has been examined in the Central District of
10 *California in Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175
11 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
12 explicated the evolution of the analysis of when contention interrogatories were
13 appropriate.

14 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of
15 the Federal Rules of Civil Procedure.

16 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be
17 construed to secure the just, speedy, and inexpensive determination of every
18 action.” “There probably is no provision in the federal rules that is more important
19 than this mandate. It reflects the spirit in which the rules were conceived and
20 written, and in which they should be, and by and large have been, interpreted.....
21 The Supreme Court of the United States has stated that these rules ‘are to be
22 accorded a broad and liberal treatment.’” *Trevino v. Celanese Corp.*, 701 F.2d 397,
23 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,
24 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85
25 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*
26 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

27 Judge Chapman allayed concerns about early use of contention
28 interrogatories and recognized that contention interrogatories are allowed under the

1 Federal Rules of Civil Procedure. Any concern about limiting proof based on
2 limited answers to interrogatories is not well-founded because such answers may
3 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
4 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

5 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent
6 Technologies Securities Litigation*, had recently even acknowledged the
7 importance of early use of contention interrogatories in certain matters:

8 *In Convergent Technologies*, Judge Wayne D. Brazil, in a
9 very thoughtful opinion, held that the 1983 amendments to
10 Fed.R.Civ.P. 26(b) compelled his conclusion that the
11 “wisest course is not to preclude entirely the early use of
12 contention interrogatories, but to place a burden of
13 justification on the party who seeks answers to these kinds
14 of questions before substantial documentary or testimonial
15 discovery has been completed.... [T]he propounding party
16 must present specific, plausible grounds for believing that
17 securing early answers to its contention questions will
18 materially advance the goals of the Federal Rules of Civil
19 Procedure.” 108 F.R.D. at 338–39. More recently,
20 however, Judge Brazil has modified his position, noting
21 that contention interrogatories may in certain cases be the
22 most reliable and cost-effective discovery device, which
23 would be less burdensome than depositions at which
24 contention questions are propounded. See *McCormick–
Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,
25 287 (N.D.Cal.1991) (holding appropriately framed and
26 timed contention interrogatories rather than depositions in
27 patent infringement action was most appropriate vehicle
28 for establishing infringers' contentions). *Cable &
Computer Tech., Inc. v. Lockheed Sanders, Inc.*, 175
F.R.D. 646, 651–52 (C.D. Cal. 1997).

25 In fact Judge Chapman, instead of placing the burden on the party
26 propounding the request in justifying the need for early discovery on such issues,
27 found placing the burden on the party opposing responding to the request, as is
28

1 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

2 In this case, though, the requests made by Blakeman are appropriate no
3 matter what analysis is applied to his alleged “contention interrogatories.” The
4 requests seek to identify witnesses. If Blakeman has the burden to show this is
5 necessary he easily meets it as there is no way he can potentially defend his case,
6 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
7 witnesses who supposedly support the allegations he is in a gang, that he commits
8 intentional torts of criminal nature, or that he is engaged in some act of negligence.
9 Alternatively, plaintiffs cannot show that they could even meet their burden in
10 resisting disclosure of this information.

11 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,
12 violations of the Bane act) without having some witness to such acts by Mr.
13 Blakeman let alone a witness who is a victim of such acts. This is compounded by
14 the Plaintiffs’ initial disclosures that list only one witness who has some vague
15 unspecified knowledge about Blakeman.

16 Surely Mr. Blakeman, who is accused of such things, and has timely
17 requested supporting information for these very specific allegations, should have
18 the opportunity to know about and to depose the witnesses who allegedly support
19 such allegations. Surely if no such persons exist then the lack of such evidence
20 must be exposed. Failing to indicate whether such evidence exists or does not
21 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
22 Procedure.

23 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

24 **Plaintiffs' Contention**

25 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
26 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
27 Plaintiffs are entitled to – and fully intend to – supplement their discovery
28 responses when they "learn[] that in some material respect the disclosure or

1 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
2 Defendant Blakeman is in control of much of the information needed to respond to
3 his contention interrogatories but, to date, has refused to produce any documents or
4 videos in response to Plaintiffs' discovery requests and in violation of his
5 obligations under Federal Rule 26(a).

6 1. Unduly Burdensome, Harassing, and Duplicative

7 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
8 claims against Blakeman on the grounds that they already disclosed the names of
9 potential witnesses in their initial and supplemental disclosures. Specifically,
10 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
11 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

12 Mr. Blakeman already has the list of potential witnesses in his possession.
13 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
14 to be compelled to identify these witnesses again.

15 2. Compound

16 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
17 knowledge of facts supporting their contentions and facts within each person's
18 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
19 a party to 25 interrogatories propounded on any other party, including all discrete
20 subparts.

21 Courts have consistently concluded that an interrogatory that asks a party to
22 identify facts, documents, and witnesses should count as separate interrogatories.
23 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
24 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
25 documents, and witnesses,] and these subparts must be multiplied by the number of
26 RFAs that were not unqualified admissions"); *Superior Commc'n v. Earhugger,*
27 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
28 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.

1 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

2 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
3 containing multiple impermissible subparts is wholly improper and therefore
4 Plaintiffs' objection on this ground was appropriate.

5 3. Information Outside Plaintiff's Knowledge

6 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
7 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
8 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
9 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
10 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
11 To the extent Plaintiffs identify additional witnesses who support their claims
12 throughout the course of discovery in this matter, Plaintiffs are aware of their
13 obligation under the Federal Rules to timely supplement their discovery and
14 disclosures.

15 Plaintiffs' objection on the grounds that the interrogatories seek information
16 outside their knowledge is an objection *only to the extent* that the information
17 sought is outside the individually-responding Plaintiff's knowledge. Although
18 Plaintiffs neglected to include the words "to the extent that" preceding these
19 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
20 their objections to include this wording, if the Court so orders.

21 4. Attorney-Client Privilege and Attorney Work Product Doctrine

22 Plaintiffs objected to the interrogatories *to the extent that* they invade the
23 attorney-client privilege and/or the work product doctrine by compelling privileged
24 communication and/or litigation strategy. These objections are worded such that
25 either the attorney-client privilege or the attorney work product doctrine (or both)
26 could protect the information from disclosure. The objections do not state that
27 both privileges necessarily apply to each piece of information sought.

28 Furthermore, Plaintiffs do not claim that all information sought is privileged,

1 as evidenced by the inclusion of "to the extent that" preceding these objections.
2 Rather, Plaintiffs have applied the work product doctrine to protect trial
3 preparation materials that reveal attorney strategy, intended lines of proof,
4 evaluations of strengths and weaknesses, and inferences drawn from interviews.
5 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
6 Plaintiffs have applied the attorney-client privilege to protect confidential
7 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
8 (9th Cir. 2010).

9 5. Premature Contention Interrogatories

10 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
11 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
12 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
13 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
14 2014) at *1-2. This objection was proper.

15 Contention interrogatories need not be answered until discovery is
16 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
17 that discovery was not "substantially complete" when the discovery cutoff was 4
18 months away and depositions of fact witnesses or defendants had not yet occurred.
19 The court opined that "[i]f Defendants had completed their document production,
20 depositions were under way, and the discovery cutoff date was just a month or so
21 away, Defendants **might** be entitled to the information they seek. But under the
22 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
23 (emphasis added).

24 Similarly, the *Folz* court found that discovery was not substantially complete
25 and the responding party had adequate time to supplement his answers when the
26 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
27 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
28 2011), held that the responding party did not need to respond to contention

1 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

2 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
3 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
4 have produced any documents despite Plaintiffs' requests for production, and
5 Plaintiff Cory Spencer only produced his first set of documents on November 4,
6 2016. Additionally, the parties have only taken 6 out of the 20 possible
7 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
8 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
9 month. Thus, it is clear that the parties are in the early stages of discovery.
10 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
11 respond to Defendant Blakeman's premature contention interrogatories.

12 2. IDENTIFY ALL PERSONS that have knowledge of any facts that
13 support your contention in paragraph 7 of the Complaint that BRANT
14 BLAKEMAN "is responsible in some manner for the Bane Act violations and
15 public nuisance described in the Complaint" and for each such PERSON identified
16 state all facts you contend are within that PERSON's knowledge.

17 **Plaintiffs' Response to Interrogatory #2**

18 Responding party objects to this interrogatory as unduly burdensome,
19 harassing, and duplicative of information disclosed in Responding Party's Rule
20 26(a) disclosures and supplemental disclosures. Propounding Party may look to
21 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
22 information sought by this interrogatory. Moreover, Responding Party had the
23 opportunity to depose Mr. Spencer on this topic.

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4 Responding Party to disclose privileged communications and/or litigation strategy.
5 Responding Party will not provide any such information.

6 Responding Party further objects to this interrogatory as premature. Because
7 this interrogatory seeks or necessarily relies upon a contention, and because this
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9 Party is unable to provide a complete response at this time, nor is it required to do
10 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
11 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
12 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
13 order that [a contention] interrogatory need not be answered until designated
14 discovery is complete, or until a pretrial conference or some other time.").

15 Based on the foregoing objections, Responding Party will not respond to this
16 interrogatory at this time.

17 **Defendant Brant Blakeman's Contention**

18 The Interrogatory seeks witness information pertaining to any and all
19 persons who plaintiffs claim support a specific contention made against Brant
20 Blakeman in his personal capacity, not as a member of a group but as an
21 individual.

22 The interrogatories at issue merely seek the identification of witnesses and
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12 hoping to take while he is unprepared in his defense to plaintiffs' contentions
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22 identify only one witness with potential knowledge concerning Mr. Blakeman,
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27 This objection by plaintiff is not a justification to refuse to provide a
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1 **2. The Interrogatory is Compound and has Subparts**

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3 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
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7 their knowledge are considered one interrogatory. (See *Chapman v. California*
8 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
9 mathematical exercise, even were one to entertain the contention that the
10 Interrogatory did not contain discrete subparts, there are only two: 12
11 interrogatories multiplied by two equals 24, which is within the limits of FRCP
12 Rule 33 which allows for 25 interrogatories.

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14 response to the Interrogatory.

15 **3. The Interrogatory Seeks Information that is Outside of**
16 **Responding Party's Knowledge**

17 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
18 knowledge. This objection either wholly lacks merit or there are very troubling
19 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

20 How is it that plaintiff can bring such egregious allegations without some
21 personal knowledge of witnesses who will support the allegations (including the
22 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
23 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
24 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
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26 Otherwise the witnesses should be identified.

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1 **4. The Interrogatory Invades the Attorney Client Privilege and**
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3 Plaintiff objects that identifying witnesses and the facts within a witness's
4 knowledge that supports allegations that Mr. Blakeman acted in some manner
5 invades the attorney client privilege. There is no legal support for withholding
6 witness identities based on the attorney client privilege. Personal knowledge
7 about facts are not privileged. "[T]he protection of the privilege extends only to
8 communications and not to facts. A fact is one thing and a communication
9 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
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1 have some idea of the witnesses, documents or facts to support the allegations.
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2 for establishing infringers' contentions). *Cable & Computer Tech., Inc. v.*
3 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

4 In fact Judge Chapman, instead of placing the burden on the party
5 propounding the request in justifying the need for early discovery on such issues,
6 found placing the burden on the party opposing responding to the request, as is
7 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

8 In this case, though, the requests made by Blakeman are appropriate no
9 matter what analysis is applied to his alleged "contention interrogatories." The
10 requests seek to identify witnesses. If Blakeman has the burden to show this is
11 necessary he easily meets it as there is no way he can potentially defend his case,
12 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
13 witnesses who supposedly support the allegations he is in a gang, that he commits
14 intentional torts of criminal nature, or that he is engaged in some act of negligence.
15 Alternatively, plaintiffs cannot show that they could even meet their burden in
16 resisting disclosure of this information.

17 How could plaintiffs' bring such egregious allegations (i.e. assault, battery,
18 violations of the Bane act) without having some witness to such acts by Mr.
19 Blakeman let alone a witness who is a victim of such acts. This is compounded by
20 the Plaintiffs' initial disclosures that list only one witness who has some vague
21 unspecified knowledge about Blakeman.

22 Surely Mr. Blakeman, who is accused of such things, and has timely
23 requested supporting information for these very specific allegations, should have
24 the opportunity to know about and to depose the witnesses who allegedly support
25 such allegations. Surely if no such persons exist then the lack of such evidence
26 must be exposed. Failing to indicate whether such evidence exists or does not
27 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
28 Procedure.

1 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

2 **Plaintiffs' Contention**

3 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
4 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
5 Plaintiffs are entitled to – and fully intend to – supplement their discovery
6 responses when they "learn[] that in some material respect the disclosure or
7 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
8 Defendant Blakeman is in control of much of the information needed to respond to
9 his contention interrogatories but, to date, has refused to produce any documents or
10 videos in response to Plaintiffs' discovery requests and in violation of his
11 obligations under Federal Rule 26(a).

12 1. **Unduly Burdensome, Harassing, and Duplicative**

13 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
14 claims against Blakeman on the grounds that they already disclosed the names of
15 potential witnesses in their initial and supplemental disclosures. Specifically,
16 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
17 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

18 Mr. Blakeman already has the list of potential witnesses in his possession.
19 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
20 to be compelled to identify these witnesses again.

21 2. **Compound**

22 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
23 knowledge of facts supporting their contentions and facts within each person's
24 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
25 a party to 25 interrogatories propounded on any other party, including all discrete
26 subparts.

27 Courts have consistently concluded that an interrogatory that asks a party to
28 identify facts, documents, and witnesses should count as separate interrogatories.

1 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
2 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,
3 documents, and witnesses,] and these subparts must be multiplied by the number of
4 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*
5 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
6 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
7 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

8 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
9 containing multiple impermissible subparts is wholly improper and therefore
10 Plaintiffs' objection on this ground was appropriate.

11 3. Information Outside Plaintiff's Knowledge

12 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
13 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
14 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
15 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
16 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
17 To the extent Plaintiffs identify additional witnesses who support their claims
18 throughout the course of discovery in this matter, Plaintiffs are aware of their
19 obligation under the Federal Rules to timely supplement their discovery and
20 disclosures.

21 Plaintiffs' objection on the grounds that the interrogatories seek information
22 outside their knowledge is an objection *only to the extent* that the information
23 sought is outside the individually-responding Plaintiff's knowledge. Although
24 Plaintiffs neglected to include the words "to the extent that" preceding these
25 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
26 their objections to include this wording, if the Court so orders.

27 4. Attorney-Client Privilege and Attorney Work Product Doctrine

28 Plaintiffs objected to the interrogatories *to the extent that* they invade the

1 attorney-client privilege and/or the work product doctrine by compelling privileged
2 communication and/or litigation strategy. These objections are worded such that
3 either the attorney-client privilege or the attorney work product doctrine (or both)
4 could protect the information from disclosure. The objections do not state that
5 both privileges necessarily apply to each piece of information sought.

6 Furthermore, Plaintiffs do not claim that all information sought is privileged,
7 as evidenced by the inclusion of "to the extent that" preceding these objections.
8 Rather, Plaintiffs have applied the work product doctrine to protect trial
9 preparation materials that reveal attorney strategy, intended lines of proof,
10 evaluations of strengths and weaknesses, and inferences drawn from interviews.
11 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
12 Plaintiffs have applied the attorney-client privilege to protect confidential
13 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
14 (9th Cir. 2010).

15 5. Premature Contention Interrogatories

16 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
17 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
18 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
19 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
20 2014) at *1-2. This objection was proper.

21 Contention interrogatories need not be answered until discovery is
22 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
23 that discovery was not "substantially complete" when the discovery cutoff was 4
24 months away and depositions of fact witnesses or defendants had not yet occurred.
25 The court opined that "[i]f Defendants had completed their document production,
26 depositions were under way, and the discovery cutoff date was just a month or so
27 away, Defendants **might** be entitled to the information they seek. But under the
28 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1

1 (emphasis added).

2 Similarly, the *Folz* court found that discovery was not substantially complete
3 and the responding party had adequate time to supplement his answers when the
4 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
5 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
6 2011), held that the responding party did not need to respond to contention
7 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

8 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
9 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
10 have produced any documents despite Plaintiffs' requests for production, and
11 Plaintiff Cory Spencer only produced his first set of documents on November 4,
12 2016. Additionally, the parties have only taken 6 out of the 20 possible
13 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
14 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
15 month. Thus, it is clear that the parties are in the early stages of discovery.
16 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
17 respond to Defendant Blakeman's premature contention interrogatories.

18 3. IDENTIFY ALL PERSONS that have knowledge of any facts that
19 support your contention in paragraph 18 of the Complaint that BRANT
20 BLAKEMAN "sell[s] market[s] and use[s] illegal controlled substances from the
21 Lunada Bay Bluffs and the Rock Fort" and for each such PERSON identified state
22 all facts you contend are within that PERSON's knowledge.

23 **Plaintiffs' Response to Interrogatory #3**

24 Responding party objects to this interrogatory as unduly burdensome,
25 harassing, and duplicative of information disclosed in Responding Party's Rule
26(a) disclosures and supplemental disclosures. Propounding Party may look to
27 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
28 information sought by this interrogatory. Moreover, Responding Party had the

1 opportunity to depose Mr. Spencer on this topic.

2 Responding party further objects to this interrogatory as compound. This
3 “interrogatory” contains multiple impermissible subparts, which Propounding
4 Party has propounded in an effort to circumvent the numerical limitations on
5 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

6 Responding Party further objects to this interrogatory on the grounds that it
7 seeks information that is outside of Responding Party’s knowledge.

8 Responding Party further objects to the extent that this interrogatory invades
9 attorney-client privilege and/or violates the work product doctrine by compelling
10 Responding Party to disclose privileged communications and/or litigation strategy.
11 Responding Party will not provide any such information.

12 Responding Party further objects to this interrogatory as premature. Because
13 this interrogatory seeks or necessarily relies upon a contention, and because this
14 matter is in its early stages and pretrial discovery has only just begun, Responding
15 Party is unable to provide a complete response at this time, nor is it required to do
16 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
17 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
18 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may
19 order that [a contention] interrogatory need not be answered until designated
20 discovery is complete, or until a pretrial conference or some other time.”).

21 Based on the foregoing objections, Responding Party will not respond to this
22 interrogatory at this time.

23 **Defendant Brant Blakeman’s Contention**

24 The Interrogatory seeks witness information pertaining to any and all
25 persons who plaintiffs claim support a specific contention made against Brant
26 Blakeman in his personal capacity, not as a member of a group but as an
27 individual.

28 The interrogatories at issue merely seek the identification of witnesses and

1 the identification of the facts believed to be within those witnesses knowledge
2 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
3 personal capacity.

4 The discovery requests defined "BRANT BLAKEMAN" as follows:

5 BRANT BLAKEMAN means only Brant Blakeman in his
6 individual capacity. This definition expressly excludes
7 Brant Blakeman as an alleged member of what plaintiff
8 alleges are the "Lunada Bay Boys." This definition
9 expressly excludes the actions or omissions of any other
10 PERSON other than Brant Blakeman in his individual
11 capacity. This definition expressly excludes acts of
12 PERSONS other than Brant Blakeman that plaintiff
13 attributes to Brant Blakeman under a theory of Civil
14 Conspiracy.

15 Failure to produce the information sought by the Interrogatory is intended
16 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
17 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
18 hoping to take while he is unprepared in his defense to plaintiffs' contentions
19 against him.

20 The response offers only uniform boilerplate objections. Based on those
21 objections, the response asserts that no answers to the requests will be provided.
22 Because the objections are unmeritorious, a further, substantive response must be
23 compelled.

24 **1. Undue Burden, Harassment, and Duplication**

25 Plaintiff contends that identifying the witnesses to the claims against Mr.
26 Blakeman is unduly burdensome and harassing and the information can be found
27 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
28 identify only one witness with potential knowledge concerning Mr. Blakeman,
Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
presented by this Interrogatory, then it certainly strains reason that answering it is
burdensome or harassing. If there are other witnesses that allege Mr. Blakeman

1 did some act those witnesses likewise should be identified.

2 This objection by plaintiff is not a justification to refuse to provide a
3 response to the interrogatory.

4 **2. The Interrogatory is Compound and has Subparts**

5 Plaintiff contends the Interrogatory is designed to circumvent the numerical
6 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
7 The Interrogatory seeks the identification of a witness and the facts within that
8 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
9 "discrete subparts." Seeking the identification of witnesses and the facts within
10 their knowledge are considered one interrogatory. (See *Chapman v. California*
11 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
12 mathematical exercise, even were one to entertain the contention that the
13 Interrogatory did not contain discrete subparts, there are only two: 12
14 interrogatories multiplied by two equals 24, which is within the limits of FRCP
15 Rule 33 which allows for 25 interrogatories.

16 This objection by plaintiff is not a justification to refuse to provide a
17 response to the Interrogatory.

18 **3. The Interrogatory Seeks Information that is Outside of**
19 **Responding Party's Knowledge**

20 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
21 knowledge. This objection either wholly lacks merit or there are very troubling
22 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

23 How is it that plaintiff can bring such egregious allegations without some
24 personal knowledge of witnesses who will support the allegations (including the
25 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
26 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
27 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
28 that support allegations, the response should merely state there are none.

1 Otherwise the witnesses should be identified.

2 This objection by plaintiff is not a justification to refuse to provide a
3 response to the Interrogatories.

4 **4. The Interrogatory Invades the Attorney Client Privilege and**
Attorney Work Product Doctrine

5 Plaintiff objects that identifying witnesses and the facts within a witnessess
6 knowledge that supports allegations that Mr. Blakeman acted in some manner
7 invades the attorney client privilege. There is no legal support for withholding
8 witnessses identities based on the attorney client privilege. Personal knowledge
9 about facts are not privileged. "[T]he protection of the privilege extends only to
10 communications and not to facts. A fact is one thing and a communication
11 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
12 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

13 This objection by plaintiff is not a justification to refuse to provide a
14 response to the Interrogatory.

15 **5. The Interrogatory is Premature as a Contention Interrogatory**

16 Plaintiff alleges the Interrogatory seeks a contention and due to the early
17 state of litigation and pre-trial discovery, responding party is unable to provide a
18 complete response and, in any event, it is required to so; citing to *Kmiec v.*
19 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
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F.R.D. 646, 651–52 (C.D. Cal. 1997).

7 In fact Judge Chapman, instead of placing the burden on the party
8 propounding the request in justifying the need for early discovery on such issues,
9 found placing the burden on the party opposing responding to the request, as is
10 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

11 In this case, though, the requests made by Blakeman are appropriate no
12 matter what analysis is applied to his alleged “contention interrogatories.” The
13 requests seek to identify witnesses. If Blakeman has the burden to show this is
14 necessary he easily meets it as there is no way he can potentially defend his case,
15 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
16 witnesses who supposedly support the allegations he is in a gang, that he commits
17 intentional torts of criminal nature, or that he is engaged in some act of negligence.
18 Alternatively, plaintiffs cannot show that they could even meet their burden in
19 resisting disclosure of this information.

20 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,
21 violations of the Bane act) without having some witness to such acts by Mr.
22 Blakeman let alone a witness who is a victim of such acts. This is compounded by
23 the Plaintiffs’ initial disclosures that list only one witness who has some vague
24 unspecified knowledge about Blakeman.

25 Surely Mr. Blakeman, who is accused of such things, and has timely
26 requested supporting information for these very specific allegations, should have
27 the opportunity to know about and to depose the witnesses who allegedly support
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1 such allegations. Surely if no such persons exist then the lack of such evidence
2 must be exposed. Failing to indicate whether such evidence exists or does not
3 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
4 Procedure.

5 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

6 **Plaintiffs' Contention**

7 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
8 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
9 Plaintiffs are entitled to – and fully intend to – supplement their discovery
10 responses when they "learn[] that in some material respect the disclosure or
11 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
12 Defendant Blakeman is in control of much of the information needed to respond to
13 his contention interrogatories but, to date, has refused to produce any documents or
14 videos in response to Plaintiffs' discovery requests and in violation of his
15 obligations under Federal Rule 26(a).

16 1. **Unduly Burdensome, Harassing, and Duplicative**

17 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
18 claims against Blakeman on the grounds that they already disclosed the names of
19 potential witnesses in their initial and supplemental disclosures. Specifically,
20 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
21 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

22 Mr. Blakeman already has the list of potential witnesses in his possession.
23 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
24 to be compelled to identify these witnesses again.

25 2. **Compound**

26 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
27 knowledge of facts supporting their contentions and facts within each person's
28 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits

1 a party to 25 interrogatories propounded on any other party, including all discrete
2 subparts.

3 Courts have consistently concluded that an interrogatory that asks a party to
4 identify facts, documents, and witnesses should count as separate interrogatories.
5 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
6 11, 2014) (concluding the interrogatory “contains 3 discrete subparts [for facts,
7 documents, and witnesses,] and these subparts must be multiplied by the number of
8 RFAs that were not unqualified admissions”); *Superior Commc'ns v. Earhugger,*
9 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
10 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
11 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

12 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
13 containing multiple impermissible subparts is wholly improper and therefore
14 Plaintiffs' objection on this ground was appropriate.

15 3. Information Outside Plaintiff's Knowledge

16 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
17 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
18 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
19 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
20 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
21 To the extent Plaintiffs identify additional witnesses who support their claims
22 throughout the course of discovery in this matter, Plaintiffs are aware of their
23 obligation under the Federal Rules to timely supplement their discovery and
24 disclosures.

25 Plaintiffs' objection on the grounds that the interrogatories seek information
26 outside their knowledge is an objection *only to the extent* that the information
27 sought is outside the individually-responding Plaintiff's knowledge. Although
28 Plaintiffs neglected to include the words "to the extent that" preceding these

1 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
2 their objections to include this wording, if the Court so orders.

3 4. Attorney-Client Privilege and Attorney Work Product Doctrine

4 Plaintiffs objected to the interrogatories *to the extent that* they invade the
5 attorney-client privilege and/or the work product doctrine by compelling privileged
6 communication and/or litigation strategy. These objections are worded such that
7 either the attorney-client privilege or the attorney work product doctrine (or both)
8 could protect the information from disclosure. The objections do not state that
9 both privileges necessarily apply to each piece of information sought.

10 Furthermore, Plaintiffs do not claim that all information sought is privileged,
11 as evidenced by the inclusion of "to the extent that" preceding these objections.
12 Rather, Plaintiffs have applied the work product doctrine to protect trial
13 preparation materials that reveal attorney strategy, intended lines of proof,
14 evaluations of strengths and weaknesses, and inferences drawn from interviews.
15 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
16 Plaintiffs have applied the attorney-client privilege to protect confidential
17 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
18 (9th Cir. 2010).

19 5. Premature Contention Interrogatories

20 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
21 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
22 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
23 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
24 2014) at *1-2. This objection was proper.

25 Contention interrogatories need not be answered until discovery is
26 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
27 that discovery was not "substantially complete" when the discovery cutoff was 4
28 months away and depositions of fact witnesses or defendants had not yet occurred.

1 The court opined that "[i]f Defendants had completed their document production,
2 depositions were under way, and the discovery cutoff date was just a month or so
3 away, Defendants *might* be entitled to the information they seek. But under the
4 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
5 (emphasis added).

6 Similarly, the *Folz* court found that discovery was not substantially complete
7 and the responding party had adequate time to supplement his answers when the
8 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
9 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
10 2011), held that the responding party did not need to respond to contention
11 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

12 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
13 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
14 have produced any documents despite Plaintiffs' requests for production, and
15 Plaintiff Cory Spencer only produced his first set of documents on November 4,
16 2016. Additionally, the parties have only taken 6 out of the 20 possible
17 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
18 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
19 month. Thus, it is clear that the parties are in the early stages of discovery.
20 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
21 respond to Defendant Blakeman's premature contention interrogatories.

22 4. IDENTIFY ALL PERSONS that have knowledge of any facts that
23 support your contention in paragraph 18 of the Complaint that BLAKE
24 BRANTMAN "impede[d] boat traffic" at any time, and for each such PERSON
25 identified state all facts you contend are within that PERSON's knowledge.

26 **Plaintiffs' Response to Interrogatory #4**

27 Responding party objects to this interrogatory as unduly burdensome,
28 harassing, and duplicative of information disclosed in Responding Party's Rule

1 26(a) disclosures and supplemental disclosures. Propounding Party may look to
2 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
3 information sought by this interrogatory. Moreover, Responding Party had the
4 opportunity to depose Mr. Spencer on this topic.

5 Responding party further objects to this interrogatory as compound. This
6 "interrogatory" contains multiple impermissible subparts, which Propounding
7 Party has propounded in an effort to circumvent the numerical limitations on
8 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

9 Responding Party further objects to this interrogatory on the grounds that it
10 seeks information that is outside of Responding Party's knowledge.

11 Responding Party further objects to the extent that this interrogatory invades
12 attorney-client privilege and/or violates the work product doctrine by compelling
13 Responding Party to disclose privileged communications and/or litigation strategy.
14 Responding Party will not provide any such information.

15 Responding Party further objects to this interrogatory as premature. Because
16 this interrogatory seeks or necessarily relies upon a contention, and because this
17 matter is in its early stages and pretrial discovery has only just begun, Responding
18 Party is unable to provide a complete response at this time, nor is it required to do
19 so. See *Kniec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
20 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
21 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
22 order that [a contention] interrogatory need not be answered until designated
23 discovery is complete, or until a pretrial conference or some other time.").

24 Based on the foregoing objections, Responding Party will not respond to this
25 interrogatory at this time.

26 **Defendant Brant Blakeman's Contention**

27 The Interrogatory seeks witness information pertaining to any and all
28 persons who plaintiffs claim support a specific contention made against Brant

1 Blakeman in his personal capacity, not as a member of a group but as an
2 individual.

3 The interrogatories at issue merely seek the identification of witnesses and
4 the identification of the facts believed to be within those witnesses knowledge
5 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
6 personal capacity.

7 The discovery requests defined "BRANT BLAKEMAN" as follows:

8 BRANT BLAKEMAN means only Brant Blakeman in his
9 individual capacity. This definition expressly excludes
10 Brant Blakeman as an alleged member of what plaintiff
11 alleges are the "Lunada Bay Boys." This definition
12 expressly excludes the actions or omissions of any other
13 PERSON other than Brant Blakeman in his individual
14 capacity. This definition expressly excludes acts of
15 PERSONS other than Brant Blakeman that plaintiff
16 attributes to Brant Blakeman under a theory of Civil
17 Conspiracy.

18 Failure to produce the information sought by the Interrogatory is intended
19 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
20 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
hoping to take while he is unprepared in his defense to plaintiffs' contentions
against him.

21 The response offers only uniform boilerplate objections. Based on those
22 objections, the response asserts that no answers to the requests will be provided.
23 Because the objections are unmeritorious, a further, substantive response must be
24 compelled.

25 **1. Undue Burden, Harassment, and Duplication**

26 Plaintiff contends that identifying the witnesses to the claims against Mr.
27 Blakeman is unduly burdensome and harassing and the information can be found
28 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure

1 identify only one witness with potential knowledge concerning Mr. Blakeman,
2 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
3 presented by this Interrogatory, then it certainly strains reason that answering it is
4 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
5 did some act those witnesses likewise should be identified.

6 This objection by plaintiff is not a justification to refuse to provide a
7 response to the interrogatory.

8 **2. The Interrogatory is Compound and has Subparts**

9 Plaintiff contends the Interrogatory is designed to circumvent the numerical
10 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
11 The Interrogatory seeks the identification of a witness and the facts within that
12 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
13 "discrete subparts." Seeking the identification of witnesses and the facts within
14 their knowledge are considered one interrogatory. (See *Chapman v. California*
15 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
16 mathematical exercise, even were one to entertain the contention that the
17 Interrogatory did not contain discrete subparts, there are only two: 12
18 interrogatories multiplied by two equals 24, which is within the limits of FRCP
19 Rule 33 which allows for 25 interrogatories.

20 This objection by plaintiff is not a justification to refuse to provide a
21 response to the Interrogatory.

22 **3. The Interrogatory Seeks Information that is Outside of**
Responding Party's Knowledge

23 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
24 knowledge. This objection either wholly lacks merit or there are very troubling
25 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

26 How is it that plaintiff can bring such egregious allegations without some
27 personal knowledge of witnesses who will support the allegations (including the

1 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
2 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
3 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
4 that support allegations, the response should merely state there are none.
5 Otherwise the witnesses should be identified.

6 This objection by plaintiff is not a justification to refuse to provide a
7 response to the Interrogatories.

8 **4. The Interrogatory Invades the Attorney Client Privilege and**
9 **Attorney Work Product Doctrine**

10 Plaintiff objects that identifying witnesses and the facts within a witnesses
11 knowledge that supports allegations that Mr. Blakeman acted in some manner
12 invades the attorney client privilege. There is no legal support for withholding
13 witnesses identities based on the attorney client privilege. Personal knowledge
14 about facts are not privileged. "[T]he protection of the privilege extends only to
15 communications and not to facts. A fact is one thing and a communication
16 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
17 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

18 This objection by plaintiff is not a justification to refuse to provide a
19 response to the Interrogatory.

20 **5. The Interrogatory is Premature as a Contention Interrogatory**

21 Plaintiff alleges the Interrogatory seeks a contention and due to the early
22 state of litigation and pre-trial discovery, responding party is unable to provide a
23 complete response and, in any event, it is required to so; citing to *Kmiec v.*
24 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
25 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
26 2014) at *1-2.; and FRCP Rule 33(a)(2).

27 While this is an argument that contention interrogatories can be delayed, the
28 subject interrogatories do not fall into that context; the responding party is the

1 party making the allegations, not the one responding to the allegations.

2 This action involves plaintiffs (bound by their own pleading) in their
3 individual capacities, as well as representative capacities, alleging intentional torts,
4 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
5 Blakeman which each of these plaintiffs make include accusation of involvement
6 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,
7 rape and similar egregious crimes. Having made these allegations Plaintiffs must
8 have some idea of the witnesses, documents or facts to support the allegations.
9 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

10 No substantive responses are provided. It is likely that no basis exists for
11 these allegations against Mr. Blakeman; he is entitled to know the basis before
12 facing a deposition by ambush.

13 Plaintiffs’ refusal is fatally flawed in any event. The cases cited are
14 inapposite.

15 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that
16 asking contention interrogatories to a shareholder plaintiff early in litigation
17 required more time for the litigation to develop. Such is not the case with the
18 issues involved in this litigation, where Plaintiffs each claim to represent a class of
19 people and make specific allegations against Mr. Blakeman for which (if pled
20 honestly) Plaintiffs alone have the supporting facts.

21 *Folz* related to contention interrogatories on defendant's affirmative
22 defenses; something that clearly would involve significantly more discovery to
23 develop than is the situation here where defendant is simply seeking information
24 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
25 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
26 committed some act. This information will allow Mr. Blakeman to depose such
27 persons and to have a "just, speedy, and inexpensive determination [in this]
28 action." (FRCP Rule 1.)

1 The identification of witnesses is important not only to Mr. Blakeman's
2 defense but also because they would contribute meaningfully to narrow the scope
3 of the issues in dispute, set up early settlement discussions, and expose the
4 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*
5 *Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
6 are important in assessing whether it would be appropriate for the early use of
7 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,
8 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
9 Rule 56 motions as there appears to be no evidence supporting the causes of action
10 against him. It also appears that there is a lack of evidence to even support
11 probable cause to pursue an action against him and a Rule 11 motion is likewise
12 being considered. The discovery is thus also intended to ferret out what appears to
13 be baseless character assassination.

14 *In re Convergent Technologies Securities Litigation* recognized the
15 importance of the identification of witnesses as a type of contention interrogatory
16 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
17 frame work it provides related to contention interrogatories, also noted that the
18 frame work does not apply to the identity of witnesses with knowledge of the facts
19 giving rise to the litigation or documents supporting material factual allegations.
20 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
21 litigation. (Id. 108 F.R.D. at 332-333).

22 The *In re Convergent Technologies Securities Litigation* frame work to be
23 applied to contention interrogatories has been examined in the Central District of
24 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175
25 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
26 explicated the evolution of the analysis of when contention interrogatories were
27 appropriate.

28 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of

1 the Federal Rules of Civil Procedure.

2 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be
3 construed to secure the just, speedy, and inexpensive determination of every
4 action.” “There probably is no provision in the federal rules that is more important
5 than this mandate. It reflects the spirit in which the rules were conceived and
6 written, and in which they should be, and by and large have been, interpreted.....
7 The Supreme Court of the United States has stated that these rules ‘are to be
8 accorded a broad and liberal treatment.’” *Trevino v. Celanese Corp.*, 701 F.2d 397,
9 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,
10 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85
11 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.
12 Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

13 Judge Chapman allayed concerns about early use of contention
14 interrogatories and recognized that contention interrogatories are allowed under the
15 Federal Rules of Civil Procedure. Any concern about limiting proof based on
16 limited answers to interrogatories is not well-founded because such answers may
17 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
18 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

19 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent
20 Technologies Securities Litigation*, had recently even acknowledged the
21 importance of early use of contention interrogatories in certain matters:

22 *In Convergent Technologies*, Judge Wayne D.
23 Brazil, in a very thoughtful opinion, held that the 1983
24 amendments to Fed.R.Civ.P. 26(b) compelled his
25 conclusion that the “wisest course is not to preclude
26 entirely the early use of contention interrogatories, but to
27 place a burden of justification on the party who seeks
28 answers to these kinds of questions before substantial
documentary or testimonial discovery has been
completed.... [T]he propounding party must present
specific, plausible grounds for believing that securing

1 early answers to its contention questions will materially
2 advance the goals of the Federal Rules of Civil
3 Procedure.” 108 F.R.D. at 338–39. More recently,
4 however, Judge Brazil has modified his position, noting
5 that contention interrogatories may in certain cases be the
6 most reliable and cost-effective discovery device, which
7 would be less burdensome than depositions at which
8 contention questions are propounded. See *McCormick-*
9 *Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,
10 287 (N.D.Cal.1991) (holding appropriately framed and
11 timed contention interrogatories rather than depositions in
12 patent infringement action was most appropriate vehicle
13 for establishing infringers' contentions). *Cable &*
14 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175
15 F.R.D. 646, 651–52 (C.D. Cal. 1997).

16 In fact Judge Chapman, instead of placing the burden on the party
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19 obligations under Federal Rule 26(a).

20 1. **Unduly Burdensome, Harassing, and Duplicative**

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2 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
3 that discovery was not "substantially complete" when the discovery cutoff was 4
months away and depositions of fact witnesses or defendants had not yet occurred.
4 The court opined that "[i]f Defendants had completed their document production,
5 depositions were under way, and the discovery cutoff date was just a month or so
6 away, Defendants *might* be entitled to the information they seek. But under the
7 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
8 (emphasis added).

10 Similarly, the *Folz* court found that discovery was not substantially complete
11 and the responding party had adequate time to supplement his answers when the
12 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
13 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
14 2011), held that the responding party did not need to respond to contention
15 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

16 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
17 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
18 have produced any documents despite Plaintiffs' requests for production, and
19 Plaintiff Cory Spencer only produced his first set of documents on November 4,
20 2016. Additionally, the parties have only taken 6 out of the 20 possible
21 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
22 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
23 month. Thus, it is clear that the parties are in the early stages of discovery.
24 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
25 respond to Defendant Blakeman's premature contention interrogatories.

26 5. IDENTIFY ALL PERSONS that have knowledge of any facts that
27 support your contention in paragraph 18 of the Complaint that BLAKE
28 BRANTMAN "dangerously disregard[ed] surfing rules" at any time, and for each

1 such PERSON identified state all facts you contend are within that PERSON's
2 knowledge.

3 **Plaintiffs' Response to Interrogatory #5**

4 Responding party objects to this interrogatory as unduly burdensome,
5 harassing, and duplicative of information disclosed in Responding Party's Rule
6 26(a) disclosures and supplemental disclosures. Propounding Party may look to
7 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
8 information sought by this interrogatory. Moreover, Responding Party had the
9 opportunity to depose Mr. Spencer on this topic.

10 Responding party further objects to this interrogatory as compound. This
11 "interrogatory" contains multiple impermissible subparts, which Propounding
12 Party has propounded in an effort to circumvent the numerical limitations on
13 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

14 Responding Party further objects to this interrogatory on the grounds that it
15 seeks information that is outside of Responding Party's knowledge.

16 Responding Party further objects to the extent that this interrogatory invades
17 attorney-client privilege and/or violates the work product doctrine by compelling
18 Responding Party to disclose privileged communications and/or litigation strategy.
19 Responding Party will not provide any such information.

20 Responding Party further objects to this interrogatory as premature. Because
21 this interrogatory seeks or necessarily relies upon a contention, and because this
22 matter is in its early stages and pretrial discovery has only just begun, Responding
23 Party is unable to provide a complete response at this time, nor is it required to do
24 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
25 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
26 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
27 order that [a contention] interrogatory need not be answered until designated
28 discovery is complete, or until a pretrial conference or some other time.").

1 Based on the foregoing objections, Responding Party will not respond to this
2 interrogatory at this time.

3 **Defendant Brant Blakeman's Contention**

4 The Interrogatory seeks witness information pertaining to any and all
5 persons who plaintiffs claim support a specific contention made against Brant
6 Blakeman in his personal capacity, not as a member of a group but as an
7 individual.

8 The interrogatories at issue merely seek the identification of witnesses and
9 the identification of the facts believed to be within those witnesses knowledge
10 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
11 personal capacity.

12 The discovery requests defined "BRANT BLAKEMAN" as follows:

13 BRANT BLAKEMAN means only Brant Blakeman in his
14 individual capacity. This definition expressly excludes
15 Brant Blakeman as an alleged member of what plaintiff
16 alleges are the "Lunada Bay Boys." This definition
17 expressly excludes the actions or omissions of any other
18 PERSON other than Brant Blakeman in his individual
19 capacity. This definition expressly excludes acts of
PERSONS other than Brant Blakeman that plaintiff
attributes to Brant Blakeman under a theory of Civil
Conspiracy.

20 Failure to produce the information sought by the Interrogatory is intended
21 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
22 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
23 hoping to take while he is unprepared in his defense to plaintiffs' contentions
24 against him.

25 The response offers only uniform boilerplate objections. Based on those
26 objections, the response asserts that no answers to the requests will be provided.
27 Because the objections are unmeritorious, a further, substantive response must be
28

1 compelled.

2 **1. Undue Burden, Harassment, and Duplication**

3 Plaintiff contends that identifying the witnesses to the claims against Mr.
4 Blakeman is unduly burdensome and harassing and the information can be found
5 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
6 identify only one witness with potential knowledge concerning Mr. Blakeman,
7 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
8 presented by this Interrogatory, then it certainly strains reason that answering it is
9 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
10 did some act those witnesses likewise should be identified.

11 This objection by plaintiff is not a justification to refuse to provide a
12 response to the interrogatory.

13 **2. The Interrogatory is Compound and has Subparts**

14 Plaintiff contends the Interrogatory is designed to circumvent the numerical
15 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
16 The Interrogatory seeks the identification of a witness and the facts within that
17 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
18 "discrete subparts." Seeking the identification of witnesses and the facts within
19 their knowledge are considered one interrogatory. (See *Chapman v. California*
20 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
21 mathematical exercise, even were one to entertain the contention that the
22 Interrogatory did not contain discrete subparts, there are only two: 12
23 interrogatories multiplied by two equals 24, which is within the limits of FRCP
24 Rule 33 which allows for 25 interrogatories.

25 This objection by plaintiff is not a justification to refuse to provide a
26 response to the Interrogatory.

27 **3. The Interrogatory Seeks Information that is Outside of**
28 **Responding Party's Knowledge**

1 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
2 knowledge. This objection either wholly lacks merit or there are very troubling
3 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

4 How is it that plaintiff can bring such egregious allegations without some
5 personal knowledge of witnesses who will support the allegations (including the
6 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
7 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
8 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
9 that support allegations, the response should merely state there are none.
10 Otherwise the witnesses should be identified.

11 This objection by plaintiff is not a justification to refuse to provide a
12 response to the Interrogatories.

13 **4. The Interrogatory Invades the Attorney Client Privilege and**
14 **Attorney Work Product Doctrine**

15 Plaintiff objects that identifying witnesses and the facts within a witnessess
16 knowledge that supports allegations that Mr. Blakeman acted in some manner
17 invades the attorney client privilege. There is no legal support for withholding
18 witnessses identities based on the attorney client privilege. Personal knowledge
19 about facts are not privileged. "[T]he protection of the privilege extends only to
20 communications and not to facts. A fact is one thing and a communication
21 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
22 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

23 This objection by plaintiff is not a justification to refuse to provide a
24 response to the Interrogatory.

25 **5. The Interrogatory is Premature as a Contention Interrogatory**

26 Plaintiff alleges the Interrogatory seeks a contention and due to the early
27 state of litigation and pre-trial discovery, responding party is unable to provide a
28 complete response and, in any event, it is required to so; citing to *Kmiec v.*

1 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
2 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
3 2014) at *1-2.; and FRCP Rule 33(a)(2).

4 While this is an argument that contention interrogatories can be delayed, the
5 subject interrogatories do not fall into that context; the responding party is the
6 party making the allegations, not the one responding to the allegations.

7 This action involves plaintiffs (bound by their own pleading) in their
8 individual capacities, as well as representative capacities, alleging intentional torts,
9 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
10 Blakeman which each of these plaintiffs make include accusation of involvement
11 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,
12 rape and similar egregious crimes. Having made these allegations Plaintiffs must
13 have some idea of the witnesses, documents or facts to support the allegations.
14 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

15 No substantive responses are provided. It is likely that no basis exists for
16 these allegations against Mr. Blakeman; he is entitled to know the basis before
17 facing a deposition by ambush.

18 Plaintiffs’ refusal is fatally flawed in any event. The cases cited are
19 inapposite.

20 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that
21 asking contention interrogatories to a shareholder plaintiff early in litigation
22 required more time for the litigation to develop. Such is not the case with the
23 issues involved in this litigation, where Plaintiffs each claim to represent a class of
24 people and make specific allegations against Mr. Blakeman for which (if pled
25 honestly) Plaintiffs alone have the supporting facts.

26 *Folz* related to contention interrogatories on defendant’s affirmative
27 defenses; something that clearly would involve significantly more discovery to
28 develop than is the situation here where defendant is simply seeking information

1 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
2 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
3 committed some act. This information will allow Mr. Blakeman to depose such
4 persons and to have a "just, speedy, and inexpensive determination [in this]
5 action." (FRCP Rule 1.)

6 The identification of witnesses is important not only to Mr. Blakeman's
7 defense but also because they would contribute meaningfully to narrow the scope
8 of the issues in dispute, set up early settlement discussions, and expose the
9 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*
10 *Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
11 are important in assessing whether it would be appropriate for the early use of
12 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,
13 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
14 Rule 56 motions as there appears to be no evidence supporting the causes of action
15 against him. It also appears that there is a lack of evidence to even support
16 probable cause to pursue an action against him and a Rule 11 motion is likewise
17 being considered. The discovery is thus also intended to ferret out what appears to
18 be baseless character assassination.

19 *In re Convergent Technologies Securities Litigation* recognized the
20 importance of the identification of witnesses as a type of contention interrogatory
21 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
22 frame work it provides related to contention interrogatories, also noted that the
23 frame work does not apply to the identity of witnesses with knowledge of the facts
24 giving rise to the litigation or documents supporting material factual allegations.
25 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
26 litigation. (Id. 108 F.R.D. at 332-333).

27 The *In re Convergent Technologies Securities Litigation* frame work to be
28 applied to contention interrogatories has been examined in the Central District of

1 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D.
2 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
3 explicated the evolution of the analysis of when contention interrogatories were
4 appropriate.

5 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of
6 the Federal Rules of Civil Procedure.

7 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be
8 construed to secure the just, speedy, and inexpensive determination of every
9 action.” “There probably is no provision in the federal rules that is more important
10 than this mandate. It reflects the spirit in which the rules were conceived and
11 written, and in which they should be, and by and large have been, interpreted.....
12 The Supreme Court of the United States has stated that these rules ‘are to be
13 accorded a broad and liberal treatment.’” *Trevino v. Celanese Corp.*, 701 F.2d 397,
14 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,
15 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85
16 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.*
17 *Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

18 Judge Chapman allayed concerns about early use of contention
19 interrogatories and recognized that contention interrogatories are allowed under the
20 Federal Rules of Civil Procedure. Any concern about limiting proof based on
21 limited answers to interrogatories is not well-founded because such answers may
22 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
23 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

24 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*
25 *Technologies Securities Litigation*, had recently even acknowledged the
26 importance of early use of contention interrogatories in certain matters:

27 In *Convergent Technologies*, Judge Wayne D. Brazil, in a
28 very thoughtful opinion, held that the 1983 amendments to
Fed.R.Civ.P. 26(b) compelled his conclusion that the “wisest

1 course is not to preclude entirely the early use of contention
2 interrogatories, but to place a burden of justification on the
3 party who seeks answers to these kinds of questions before
4 substantial documentary or testimonial discovery has been
5 completed.... [T]he propounding party must present specific,
6 plausible grounds for believing that securing early answers
7 to its contention questions will materially advance the goals
8 of the Federal Rules of Civil Procedure." 108 F.R.D. at 338-
9 39. More recently, however, Judge Brazil has modified his
10 position, noting that contention interrogatories may in
11 certain cases be the most reliable and cost-effective
12 discovery device, which would be less burdensome than
13 depositions at which contention questions are propounded.
14 See *McCormick-Morgan, Inc. v. Teledyne Industries, Inc.*,
15 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately
16 framed and timed contention interrogatories rather than
17 depositions in patent infringement action was most
18 appropriate vehicle for establishing infringers' contentions).
19 *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*,
20 175 F.R.D. 646, 651-52 (C.D. Cal. 1997).

21 In fact Judge Chapman, instead of placing the burden on the party
22 propounding the request in justifying the need for early discovery on such issues,
23 found placing the burden on the party opposing responding to the request, as is
24 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

25 In this case, though, the requests made by Blakeman are appropriate no
26 matter what analysis is applied to his alleged "contention interrogatories." The
27 requests seek to identify witnesses. If Blakeman has the burden to show this is
28 necessary he easily meets it as there is no way he can potentially defend his case,
bring motions under Rule 56, or bring motions under Rule 11 without knowing the
witnesses who supposedly support the allegations he is in a gang, that he commits
intentional torts of criminal nature, or that he is engaged in some act of negligence.
Alternatively, plaintiffs cannot show that they could even meet their burden in
resisting disclosure of this information.

How could plaintiffs' bring such egregious allegations (i.e. assault, battery,
violations of the Bane act) without having some witness to such acts by Mr.
Blakeman let alone a witness who is a victim of such acts. This is compounded by
the Plaintiffs' initial disclosures that list only one witness who has some vague

1 unspecified knowledge about Blakeman.

2 Surely Mr. Blakeman, who is accused of such things, and has timely
3 requested supporting information for these very specific allegations, should have
4 the opportunity to know about and to depose the witnesses who allegedly support
5 such allegations. Surely if no such persons exist then the lack of such evidence
6 must be exposed. Failing to indicate whether such evidence exists or does not
7 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
8 Procedure.

9 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

10 **Plaintiffs' Contention**

11 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
12 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
13 Plaintiffs are entitled to – and fully intend to – supplement their discovery
14 responses when they "learn[] that in some material respect the disclosure or
15 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
16 Defendant Blakeman is in control of much of the information needed to respond to
17 his contention interrogatories but, to date, has refused to produce any documents or
18 videos in response to Plaintiffs' discovery requests and in violation of his
19 obligations under Federal Rule 26(a).

20 1. **Unduly Burdensome, Harassing, and Duplicative**

21 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
22 claims against Blakeman on the grounds that they already disclosed the names of
23 potential witnesses in their initial and supplemental disclosures. Specifically,
24 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
25 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

26 Mr. Blakeman already has the list of potential witnesses in his possession.
27 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
28 to be compelled to identify these witnesses again.

1 2. Compound

2 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
3 knowledge of facts supporting their contentions and facts within each person's
4 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
5 a party to 25 interrogatories propounded on any other party, including all discrete
6 subparts.

7 Courts have consistently concluded that an interrogatory that asks a party to
8 identify facts, documents, and witnesses should count as separate interrogatories.

9 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
10 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
11 documents, and witnesses,] and these subparts must be multiplied by the number of
12 RFAs that were not unqualified admissions"); *Superior Commc'n v. Earhugger,*
13 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
14 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
15 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

16 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
17 containing multiple impermissible subparts is wholly improper and therefore
18 Plaintiffs' objection on this ground was appropriate.

19 3. Information Outside Plaintiff's Knowledge

20 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
21 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
22 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
23 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
24 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
25 To the extent Plaintiffs identify additional witnesses who support their claims
26 throughout the course of discovery in this matter, Plaintiffs are aware of their
27 obligation under the Federal Rules to timely supplement their discovery and
28 disclosures.

1 Plaintiffs' objection on the grounds that the interrogatories seek information
2 outside their knowledge is an objection *only to the extent* that the information
3 sought is outside the individually-responding Plaintiff's knowledge. Although
4 Plaintiffs neglected to include the words "to the extent that" preceding these
5 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
6 their objections to include this wording, if the Court so orders.

7 4. Attorney-Client Privilege and Attorney Work Product Doctrine

8 Plaintiffs objected to the interrogatories *to the extent that* they invade the
9 attorney-client privilege and/or the work product doctrine by compelling privileged
10 communication and/or litigation strategy. These objections are worded such that
11 either the attorney-client privilege or the attorney work product doctrine (or both)
12 could protect the information from disclosure. The objections do not state that
13 both privileges necessarily apply to each piece of information sought.

14 Furthermore, Plaintiffs do not claim that all information sought is privileged,
15 as evidenced by the inclusion of "to the extent that" preceding these objections.
16 Rather, Plaintiffs have applied the work product doctrine to protect trial
17 preparation materials that reveal attorney strategy, intended lines of proof,
18 evaluations of strengths and weaknesses, and inferences drawn from interviews.
19 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
20 Plaintiffs have applied the attorney-client privilege to protect confidential
21 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
22 (9th Cir. 2010).

23 5. Premature Contention Interrogatories

24 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
25 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
26 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
27 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
28 2014) at *1-2. This objection was proper.

1 Contention interrogatories need not be answered until discovery is
2 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
3 that discovery was not "substantially complete" when the discovery cutoff was 4
months away and depositions of fact witnesses or defendants had not yet occurred.
4 The court opined that "[i]f Defendants had completed their document production,
5 depositions were under way, and the discovery cutoff date was just a month or so
6 away, Defendants **might** be entitled to the information they seek. But under the
7 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
8 (emphasis added).

10 Similarly, the *Folz* court found that discovery was not substantially complete
11 and the responding party had adequate time to supplement his answers when the
12 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
13 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
14 2011), held that the responding party did not need to respond to contention
15 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

16 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
17 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
18 have produced any documents despite Plaintiffs' requests for production, and
19 Plaintiff Cory Spencer only produced his first set of documents on November 4,
20 2016. Additionally, the parties have only taken 6 out of the 20 possible
21 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
22 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
23 month. Thus, it is clear that the parties are in the early stages of discovery.
24 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
25 respond to Defendant Blakeman's premature contention interrogatories.

26 6. IDENTIFY ALL PERSONS that have knowledge of any facts that
27 support your contention that BLAKE BRANTMAN has illegally extorted money
28 from beachgoers who wish to use Lunada Bay for recreational purposes (See

1 paragraph 33 j. of the Complaint) , and for each such PERSON identified state all
2 facts you contend are within that PERSON's knowledge.

3 **Plaintiffs' Response to Interrogatory #6**

4 Responding party objects to this interrogatory as unduly burdensome,
5 harassing, and duplicative of information disclosed in Responding Party's Rule
6 26(a) disclosures and supplemental disclosures. Propounding Party may look to
7 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
8 information sought by this interrogatory. Moreover, Responding Party had the
9 opportunity to depose Mr. Spencer on this topic.

10 Responding party further objects to this interrogatory as compound. This
11 "interrogatory" contains multiple impermissible subparts, which Propounding
12 Party has propounded in an effort to circumvent the numerical limitations on
13 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

14 Responding Party further objects to this interrogatory on the grounds that it
15 seeks information that is outside of Responding Party's knowledge.

16 Responding Party further objects to the extent that this interrogatory invades
17 attorney-client privilege and/or violates the work product doctrine by compelling
18 Responding Party to disclose privileged communications and/or litigation strategy.
19 Responding Party will not provide any such information.

20 Responding Party further objects to this interrogatory as premature. Because
21 this interrogatory seeks or necessarily relies upon a contention, and because this
22 matter is in its early stages and pretrial discovery has only just begun, Responding
23 Party is unable to provide a complete response at this time, nor is it required to do
24 so. *See Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
25 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
26 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
27 order that [a contention] interrogatory need not be answered until designated
28 discovery is complete, or until a pretrial conference or some other time.").

1 Based on the foregoing objections, Responding Party will not respond to this
2 interrogatory at this time.

3 **Defendant Brant Blakeman's Contention**

4 The Interrogatory seeks witness information pertaining to any and all
5 persons who plaintiffs claim support a specific contention made against Brant
6 Blakeman in his personal capacity, not as a member of a group but as an
7 individual.

8 The interrogatories at issue merely seek the identification of witnesses and
9 the identification of the facts believed to be within those witnesses knowledge
10 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
11 personal capacity.

12 The discovery requests defined "BRANT BLAKEMAN" as follows:

13 BRANT BLAKEMAN means only Brant Blakeman in his
14 individual capacity. This definition expressly excludes
15 Brant Blakeman as an alleged member of what plaintiff
16 alleges are the "Lunada Bay Boys." This definition
17 expressly excludes the actions or omissions of any other
18 PERSON other than Brant Blakeman in his individual
19 capacity. This definition expressly excludes acts of
PERSONS other than Brant Blakeman that plaintiff
attributes to Brant Blakeman under a theory of Civil
Conspiracy.

20
21 Failure to produce the information sought by the Interrogatory is intended
22 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
23 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
24 hoping to take while he is unprepared in his defense to plaintiffs' contentions
25 against him.

26 ///

27 ///

28 ///

1 The response offers only uniform boilerplate objections. Based on those
2 objections, the response asserts that no answers to the requests will be provided.
3 Because the objections are unmeritorious, a further, substantive response must be
4 compelled.

5 **1. Undue Burden, Harassment, and Duplication**

6 Plaintiff contends that identifying the witnesses to the claims against Mr.
7 Blakeman is unduly burdensome and harassing and the information can be found
8 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
9 identify only one witness with potential knowledge concerning Mr. Blakeman,
10 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
11 presented by this Interrogatory, then it certainly strains reason that answering it is
12 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
13 did some act those witnesses likewise should be identified.

14 This objection by plaintiff is not a justification to refuse to provide a
15 response to the interrogatory.

16 **2. The Interrogatory is Compound and has Subparts**

17 Plaintiff contends the Interrogatory is designed to circumvent the numerical
18 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
19 The Interrogatory seeks the identification of a witness and the facts within that
20 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
21 "discrete subparts." Seeking the identification of witnesses and the facts within
22 their knowledge are considered one interrogatory. (See *Chapman v. California*
23 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
24 mathematical exercise, even were one to entertain the contention that the
25 Interrogatory did not contain discrete subparts, there are only two: 12
26 interrogatories multiplied by two equals 24, which is within the limits of FRCP
27 Rule 33 which allows for 25 interrogatories.

28 This objection by plaintiff is not a justification to refuse to provide a

1 response to the Interrogatory.

2 **3. The Interrogatory Seeks Information that is Outside of**
3 **Responding Party's Knowledge**

4 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
5 knowledge. This objection either wholly lacks merit or there are very troubling
6 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

7 How is it that plaintiff can bring such egregious allegations without some
8 personal knowledge of witnesses who will support the allegations (including the
9 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
10 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
11 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
12 that support allegations, the response should merely state there are none.
13 Otherwise the witnesses should be identified.

14 This objection by plaintiff is not a justification to refuse to provide a
15 response to the Interrogatories.

16 **4. The Interrogatory Invades the Attorney Client Privilege**
17 **and Attorney Work Product Doctrine**

18 Plaintiff objects that identifying witnesses and the facts within a witnessess
19 knowledge that supports allegations that Mr. Blakeman acted in some manner
20 invades the attorney client privilege. There is no legal support for withholding
21 witnessses identities based on the attorney client privilege. Personal knowledge
22 about facts are not privileged. "[T]he protection of the privilege extends only to
23 communications and not to facts. A fact is one thing and a communication
24 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
25 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

26 This objection by plaintiff is not a justification to refuse to provide a
27 response to the Interrogatory.

28 ///

1 **5. The Interrogatory is Premature as a Contention Interrogatory**

2 Plaintiff alleges the Interrogatory seeks a contention and due to the early
3 state of litigation and pre-trial discovery, responding party is unable to provide a
4 complete response and, in any event, it is required to so; citing to *Kmiec v.*
5 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
6 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
7 2014) at *1-2.; and FRCP Rule 33(a)(2).

8 While this is an argument that contention interrogatories can be delayed, the
9 subject interrogatories do not fall into that context; the responding party is the
10 party making the allegations, not the one responding to the allegations.

11 This action involves plaintiffs (bound by their own pleading) in their
12 individual capacities, as well as representative capacities, alleging intentional torts,
13 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
14 Blakeman which each of these plaintiffs make include accusation of involvement
15 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,
16 rape and similar egregious crimes. Having made these allegations Plaintiffs must
17 have some idea of the witnesses, documents or facts to support the allegations.
18 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

19 No substantive responses are provided. It is likely that no basis exists for
20 these allegations against Mr. Blakeman; he is entitled to know the basis before
21 facing a deposition by ambush.

22 Plaintiffs’ refusal is fatally flawed in any event. The cases cited are
23 inapposite.

24 *Kmiec* was a securities litigation matter. In context, *Kmiec* reasoned that
25 asking contention interrogatories to a shareholder plaintiff early in litigation
26 required more time for the litigation to develop. Such is not the case with the
27 issues involved in this litigation, where Plaintiffs each claim to represent a class of
28 people and make specific allegations against Mr. Blakeman for which (if pled

1 honestly) Plaintiffs alone have the supporting facts.

2 *Folz* related to contention interrogatories on defendant's affirmative
3 defenses; something that clearly would involve significantly more discovery to
4 develop than is the situation here where defendant is simply seeking information
5 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
6 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
7 committed some act. This information will allow Mr. Blakeman to depose such
8 persons and to have a "just, speedy, and inexpensive determination [in this]
9 action." (FRCP Rule 1.)

10 The identification of witnesses is important not only to Mr. Blakeman's
11 defense but also because they would contribute meaningfully to narrow the scope
12 of the issues in dispute, set up early settlement discussions, and expose the
13 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.
14 Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
15 are important in assessing whether it would be appropriate for the early use of
16 contention interrogatories (See *In re Convergent Technologies Securities
17 Litigation*, 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to
18 pursue Rule 56 motions as there appears to be no evidence supporting the causes of
19 action against him. It also appears that there is a lack of evidence to even support
20 probable cause to pursue an action against him and a Rule 11 motion is likewise
21 being considered. The discovery is thus also intended to ferret out what appears to
22 be baseless character assassination.

23 *In re Convergent Technologies Securities Litigation* recognized the
24 importance of the identification of witnesses as a type of contention interrogatory
25 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
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27 frame work does not apply to the identity of witnesses with knowledge of the facts
28 giving rise to the litigation or documents supporting material factual allegations.

1 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
2 litigation. (Id. 108 F.R.D. at 332-333).

3 The *In re Convergent Technologies Securities Litigation* frame work to be
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6 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
7 explicated the evolution of the analysis of when contention interrogatories were
8 appropriate.

9 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of
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20 *Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal.
21 1997).)

22 Judge Chapman allayed concerns about early use of contention
23 interrogatories and recognized that contention interrogatories are allowed under the
24 Federal Rules of Civil Procedure. Any concern about limiting proof based on
25 limited answers to interrogatories is not well-founded because such answers may
26 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
27 amend” answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

28 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*

Technologies Securities Litigation, had recently even acknowledged the importance of early use of contention interrogatories in certain matters:

In *Convergent Technologies*, Judge Wayne D. Brazil, in a very thoughtful opinion, held that the 1983 amendments to Fed.R.Civ.P. 26(b) compelled his conclusion that the “wisest course is not to preclude entirely the early use of contention interrogatories, but to place a burden of justification on the party who seeks answers to these kinds of questions before substantial documentary or testimonial discovery has been completed.... [T]he propounding party must present specific, plausible grounds for believing that securing early answers to its contention questions will materially advance the goals of the Federal Rules of Civil Procedure.” 108 F.R.D. at 338–39. More recently, however, Judge Brazil has modified his position, noting that contention interrogatories may in certain cases be the most reliable and cost-effective discovery device, which would be less burdensome than depositions at which contention questions are propounded. See *McCormick-Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275, 287 (N.D.Cal.1991) (holding appropriately framed and timed contention interrogatories rather than depositions in patent infringement action was most appropriate vehicle for establishing infringers' contentions). *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175 F.R.D. 646, 651–52 (C.D. Cal. 1997).

In fact Judge Chapman, instead of placing the burden on the party propounding the request in justifying the need for early discovery on such issues, found placing the burden on the party opposing responding to the request, as is done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

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1 In this case, though, the requests made by Blakeman are appropriate no
2 matter what analysis is applied to his alleged “contention interrogatories.” The
3 requests seek to identify witnesses. If Blakeman has the burden to show this is
4 necessary he easily meets it as there is no way he can potentially defend his case,
5 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
6 witnesses who supposedly support the allegations he is in a gang, that he commits
7 intentional torts of criminal nature, or that he is engaged in some act of negligence.
8 Alternatively, plaintiffs cannot show that they could even meet their burden in
9 resisting disclosure of this information. How could plaintiffs bring such egregious
10 allegations (i.e. assault, battery, violations of the Bane Act) without having some
11 witness to such acts by Mr. Blakeman let alone a witness who is a victim of such
12 acts. This is compounded by the Plaintiffs’ initial disclosures that list only one
13 witness who has some vague unspecified knowledge about Blakeman.

14 Surely Mr. Blakeman, who is accused of such things, and has timely
15 requested supporting information for these very specific allegations, should have
16 the opportunity to know about and to depose the witnesses who allegedly support
17 such allegations. Surely if no such persons exist then the lack of such evidence
18 must be exposed. Failing to indicate whether such evidence exists or does not
19 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
20 Procedure.

21 This objection by plaintiff is not a justification to refuse to provide a
22 response to the Interrogatory.

23 **Plaintiffs' Contention**

24 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
25 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
26 Plaintiffs are entitled to – and fully intend to – supplement their discovery
27 responses when they "learn[] that in some material respect the disclosure or
28 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,

1 Defendant Blakeman is in control of much of the information needed to respond to
2 his contention interrogatories but, to date, has refused to produce any documents or
3 videos in response to Plaintiffs' discovery requests and in violation of his
4 obligations under Federal Rule 26(a).

5 1. Unduly Burdensome, Harassing, and Duplicative

6 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
7 claims against Blakeman on the grounds that they already disclosed the names of
8 potential witnesses in their initial and supplemental disclosures. Specifically,
9 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
10 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

11 Mr. Blakeman already has the list of potential witnesses in his possession.
12 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
13 to be compelled to identify these witnesses again.

14 2. Compound

15 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
16 knowledge of facts supporting their contentions and facts within each person's
17 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
18 a party to 25 interrogatories propounded on any other party, including all discrete
19 subparts.

20 Courts have consistently concluded that an interrogatory that asks a party to
21 identify facts, documents, and witnesses should count as separate interrogatories.
22 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
23 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
24 documents, and witnesses,] and these subparts must be multiplied by the number of
25 RFAs that were not unqualified admissions"); *Superior Commc'nns v. Earhugger,*
26 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
27 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
28 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

1 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
2 containing multiple impermissible subparts is wholly improper and therefore
3 Plaintiffs' objection on this ground was appropriate.

4 3. Information Outside Plaintiff's Knowledge

5 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
6 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
7 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
8 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
9 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
10 To the extent Plaintiffs identify additional witnesses who support their claims
11 throughout the course of discovery in this matter, Plaintiffs are aware of their
12 obligation under the Federal Rules to timely supplement their discovery and
13 disclosures.

14 Plaintiffs' objection on the grounds that the interrogatories seek information
15 outside their knowledge is an objection *only to the extent* that the information
16 sought is outside the individually-responding Plaintiff's knowledge. Although
17 Plaintiffs neglected to include the words "to the extent that" preceding these
18 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
19 their objections to include this wording, if the Court so orders.

20 4. Attorney-Client Privilege and Attorney Work Product Doctrine

21 Plaintiffs objected to the interrogatories *to the extent that* they invade the
22 attorney-client privilege and/or the work product doctrine by compelling privileged
23 communication and/or litigation strategy. These objections are worded such that
24 either the attorney-client privilege or the attorney work product doctrine (or both)
25 could protect the information from disclosure. The objections do not state that
26 both privileges necessarily apply to each piece of information sought.

27 Furthermore, Plaintiffs do not claim that all information sought is privileged,
28 as evidenced by the inclusion of "to the extent that" preceding these objections.

1 Rather, Plaintiffs have applied the work product doctrine to protect trial
2 preparation materials that reveal attorney strategy, intended lines of proof,
3 evaluations of strengths and weaknesses, and inferences drawn from interviews.
4 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
5 Plaintiffs have applied the attorney-client privilege to protect confidential
6 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
7 (9th Cir. 2010).

8 5. Premature Contention Interrogatories

9 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
10 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
11 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
12 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
13 2014) at *1-2. This objection was proper.

14 Contention interrogatories need not be answered until discovery is
15 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
16 that discovery was not "substantially complete" when the discovery cutoff was 4
17 months away and depositions of fact witnesses or defendants had not yet occurred.
18 The court opined that "[i]f Defendants had completed their document production,
19 depositions were under way, and the discovery cutoff date was just a month or so
20 away, Defendants **might** be entitled to the information they seek. But under the
21 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
22 (emphasis added).

23 Similarly, the *Folz* court found that discovery was not substantially complete
24 and the responding party had adequate time to supplement his answers when the
25 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
26 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
27 2011), held that the responding party did not need to respond to contention
28 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

1 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
2 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
3 have produced any documents despite Plaintiffs' requests for production, and
4 Plaintiff Cory Spencer only produced his first set of documents on November 4,
5 2016. Additionally, the parties have only taken 6 out of the 20 possible
6 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
7 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
8 month. Thus, it is clear that the parties are in the early stages of discovery.
9 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
10 respond to Defendant Blakeman's premature contention interrogatories.

11 7. IDENTIFY ALL PERSONS that have knowledge of any facts that
12 support your contention that BLAKE BRANTMAN was a part of a Civil
13 Conspiracy as identified in your complaint in paragraphs 51 through 53, and for
14 each such PERSON identified state all facts you contend are within that PERSON's
15 knowledge.

16 **Plaintiffs' Response to Interrogatory #7**

17 Responding party objects to this interrogatory as unduly burdensome,
18 harassing, and duplicative of information disclosed in Responding Party's Rule
19 26(a) disclosures and supplemental disclosures. Propounding Party may look to
20 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
21 information sought by this interrogatory. Moreover, Responding Party had the
22 opportunity to depose Mr. Spencer on this topic.

23 Responding party further objects to this interrogatory as compound. This
24 "interrogatory" contains multiple impermissible subparts, which Propounding
25 Party has propounded in an effort to circumvent the numerical limitations on
26 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

27 Responding Party further objects to this interrogatory on the grounds that it
28 seeks information that is outside of Responding Party's knowledge.

1 Responding Party further objects to the extent that this interrogatory invades
2 attorney-client privilege and/or violates the work product doctrine by compelling
3 Responding Party to disclose privileged communications and/or litigation strategy.
4 Responding Party will not provide any such information.

5 Responding Party further objects to this interrogatory as premature. Because
6 this interrogatory seeks or necessarily relies upon a contention, and because this
7 matter is in its early stages and pretrial discovery has only just begun, Responding
8 Party is unable to provide a complete response at this time, nor is it required to do
9 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
10 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
11 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may
12 order that [a contention] interrogatory need not be answered until designated
13 discovery is complete, or until a pretrial conference or some other time.”).

14 Based on the foregoing objections, Responding Party will not respond to this
15 interrogatory at this time.

16 **Defendant Brant Blakeman's Contention**

17 The Interrogatory seeks witness information pertaining to any and all
18 persons who plaintiffs claim support a specific contention made against Brant
19 Blakeman in his personal capacity, not as a member of a group but as an
20 individual.

21 The interrogatories at issue merely seek the identification of witnesses and
22 the identification of the facts believed to be within those witnesses knowledge
23 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
24 personal capacity.

25 The discovery requests defined "BRANT BLAKEMAN" as follows:

26 BRANT BLAKEMAN means only Brant Blakeman in his
27 individual capacity. This definition expressly excludes
28 Brant Blakeman as an alleged member of what plaintiff
alleges are the "Lunada Bay Boys." This definition

1 expressly excludes the actions or omissions of any other
2 PERSON other than Brant Blakeman in his individual
3 capacity. This definition expressly excludes acts of
4 PERSONS other than Brant Blakeman that plaintiff
5 attributes to Brant Blakeman under a theory of Civil
6 Conspiracy.

7 Failure to produce the information sought by the Interrogatory is intended
8 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
9 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
10 hoping to take while he is unprepared in his defense to plaintiffs' contentions
against him.

11 The response offers only uniform boilerplate objections. Based on those
12 objections, the response asserts that no answers to the requests will be provided.
13 Because the objections are unmeritorious, a further, substantive response must be
14 compelled.

15 **1. Undue Burden, Harassment, and Duplication**

16 Plaintiff contends that identifying the witnesses to the claims against Mr.
17 Blakeman is unduly burdensome and harassing and the information can be found
18 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
19 identify only one witness with potential knowledge concerning Mr. Blakeman,
20 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
21 presented by this Interrogatory, then it certainly strains reason that answering it is
22 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
23 did some act those witnesses likewise should be identified.

24 This objection by plaintiff is not a justification to refuse to provide a
25 response to the interrogatory.

26 **2. The Interrogatory is Compound and has Subparts**

27 Plaintiff contends the Interrogatory is designed to circumvent the numerical
28 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.

1 The Interrogatory seeks the identification of a witness and the facts within that
2 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
3 "discrete subparts." Seeking the identification of witnesses and the facts within
4 their knowledge are considered one interrogatory. (See *Chapman v. California*
5 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
6 mathematical exercise, even were one to entertain the contention that the
7 Interrogatory did not contain discrete subparts, there are only two: 12
8 interrogatories multiplied by two equals 24, which is within the limits of FRCP
9 Rule 33 which allows for 25 interrogatories.

10 This objection by plaintiff is not a justification to refuse to provide a
11 response to the Interrogatory.

12 **3. The Interrogatory Seeks Information that is Outside of**
13 **Responding Party's Knowledge**

14 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
15 knowledge. This objection either wholly lacks merit or there are very troubling
16 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

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25 The Supreme Court of the United States has stated that these rules ‘are to be
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6 limited answers to interrogatories is not well-founded because such answers may
7 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
8 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

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11 importance of early use of contention interrogatories in certain matters:

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13 very thoughtful opinion, held that the 1983 amendments to
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16 contention interrogatories, but to place a burden of
17 justification on the party who seeks answers to these kinds
18 of questions before substantial documentary or testimonial
19 discovery has been completed.... [T]he propounding party
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21 securing early answers to its contention questions will
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26 most reliable and cost-effective discovery device, which
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1 In fact Judge Chapman, instead of placing the burden on the party
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3 found placing the burden on the party opposing responding to the request, as is
4 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

5 In this case, though, the requests made by Blakeman are appropriate no
6 matter what analysis is applied to his alleged “contention interrogatories.” The
7 requests seek to identify witnesses. If Blakeman has the burden to show this is
8 necessary he easily meets it as there is no way he can potentially defend his case,
9 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
10 witnesses who supposedly support the allegations he is in a gang, that he commits
11 intentional torts of criminal nature, or that he is engaged in some act of negligence.
12 Alternatively, plaintiffs cannot show that they could even meet their burden in
13 resisting disclosure of this information.

14 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,
15 violations of the Bane act) without having some witness to such acts by Mr.
16 Blakeman let alone a witness who is a victim of such acts. This is compounded by
17 the Plaintiffs’ initial disclosures that list only one witness who has some vague
18 unspecified knowledge about Blakeman.

19 Surely Mr. Blakeman, who is accused of such things, and has timely
20 requested supporting information for these very specific allegations, should have
21 the opportunity to know about and to depose the witnesses who allegedly support
22 such allegations. Surely if no such persons exist then the lack of such evidence
23 must be exposed. Failing to indicate whether such evidence exists or does not
24 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
25 Procedure.

26 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

27 **Plaintiffs' Contention**

28 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy

1 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
2 Plaintiffs are entitled to – and fully intend to – supplement their discovery
3 responses when they "learn[] that in some material respect the disclosure or
4 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
5 Defendant Blakeman is in control of much of the information needed to respond to
6 his contention interrogatories but, to date, has refused to produce any documents or
7 videos in response to Plaintiffs' discovery requests and in violation of his
8 obligations under Federal Rule 26(a).

9 1. Unduly Burdensome, Harassing, and Duplicative

10 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
11 claims against Blakeman on the grounds that they already disclosed the names of
12 potential witnesses in their initial and supplemental disclosures. Specifically,
13 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
14 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

15 Mr. Blakeman already has the list of potential witnesses in his possession.
16 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
17 to be compelled to identify these witnesses again.

18 2. Compound

19 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
20 knowledge of facts supporting their contentions and facts within each person's
21 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
22 a party to 25 interrogatories propounded on any other party, including all discrete
23 subparts.

24 Courts have consistently concluded that an interrogatory that asks a party to
25 identify facts, documents, and witnesses should count as separate interrogatories.
26 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
27 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
28 documents, and witnesses,] and these subparts must be multiplied by the number of

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4 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

5 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
6 containing multiple impermissible subparts is wholly improper and therefore
7 Plaintiffs' objection on this ground was appropriate.

8 3. Information Outside Plaintiff's Knowledge

9 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
10 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
11 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
12 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
13 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
14 To the extent Plaintiffs identify additional witnesses who support their claims
15 throughout the course of discovery in this matter, Plaintiffs are aware of their
16 obligation under the Federal Rules to timely supplement their discovery and
17 disclosures.

18 Plaintiffs' objection on the grounds that the interrogatories seek information
19 outside their knowledge is an objection *only to the extent* that the information
20 sought is outside the individually-responding Plaintiff's knowledge. Although
21 Plaintiffs neglected to include the words "to the extent that" preceding these
22 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
23 their objections to include this wording, if the Court so orders.

24 4. Attorney-Client Privilege and Attorney Work Product Doctrine

25 Plaintiffs objected to the interrogatories *to the extent that* they invade the
26 attorney-client privilege and/or the work product doctrine by compelling privileged
27 communication and/or litigation strategy. These objections are worded such that
28 either the attorney-client privilege or the attorney work product doctrine (or both)

1 could protect the information from disclosure. The objections do not state that
2 both privileges necessarily apply to each piece of information sought.

3 Furthermore, Plaintiffs do not claim that all information sought is privileged,
4 as evidenced by the inclusion of "to the extent that" preceding these objections.
5 Rather, Plaintiffs have applied the work product doctrine to protect trial
6 preparation materials that reveal attorney strategy, intended lines of proof,
7 evaluations of strengths and weaknesses, and inferences drawn from interviews.
8 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
9 Plaintiffs have applied the attorney-client privilege to protect confidential
10 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
11 (9th Cir. 2010).

12 5. Premature Contention Interrogatories

13 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
14 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
15 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
16 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
17 2014) at *1-2. This objection was proper.

18 Contention interrogatories need not be answered until discovery is
19 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
20 that discovery was not "substantially complete" when the discovery cutoff was 4
21 months away and depositions of fact witnesses or defendants had not yet occurred.
22 The court opined that "[i]f Defendants had completed their document production,
23 depositions were under way, and the discovery cutoff date was just a month or so
24 away, Defendants **might** be entitled to the information they seek. But under the
25 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
26 (emphasis added).

27 Similarly, the *Folz* court found that discovery was not substantially complete
28 and the responding party had adequate time to supplement his answers when the

1 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
2 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
3 2011), held that the responding party did not need to respond to contention
4 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

5 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
6 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
7 have produced any documents despite Plaintiffs' requests for production, and
8 Plaintiff Cory Spencer only produced his first set of documents on November 4,
9 2016. Additionally, the parties have only taken 6 out of the 20 possible
10 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
11 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
12 month. Thus, it is clear that the parties are in the early stages of discovery.
13 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
14 respond to Defendant Blakeman's premature contention interrogatories.

15 8. IDENTIFY ALL PERSONS that have knowledge of any facts that
16 support plaintiffs' First Cause of Action in the Complaint (Bane Act Violations)
17 against BRANT BLAKEMAN, and for each such PERSON identified state all
18 facts you contend are within that PERSON's knowledge.

19 **Plaintiffs' Response to Interrogatory #8**

20 Responding party objects to this interrogatory as unduly burdensome,
21 harassing, and duplicative of information disclosed in Responding Party's Rule
22 26(a) disclosures and supplemental disclosures. Propounding Party may look to
23 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
24 information sought by this interrogatory. Moreover, Responding Party had the
25 opportunity to depose Mr. Spencer on this topic.

26 Responding party further objects to this interrogatory as compound. This
27 "interrogatory" contains multiple impermissible subparts, which Propounding
28 Party has propounded in an effort to circumvent the numerical limitations on

1 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

2 Responding Party further objects to this interrogatory on the grounds that it
3 seeks information that is outside of Responding Party's knowledge.

4 Responding Party further objects to the extent that this interrogatory invades
5 attorney-client privilege and/or violates the work product doctrine by compelling
6 Responding Party to disclose privileged communications and/or litigation strategy.
7 Responding Party will not provide any such information.

8 Responding Party further objects to this interrogatory as premature. Because
9 this interrogatory seeks or necessarily relies upon a contention, and because this
10 matter is in its early stages and pretrial discovery has only just begun, Responding
11 Party is unable to provide a complete response at this time, nor is it required to do
12 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
13 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
14 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
15 order that [a contention] interrogatory need not be answered until designated
16 discovery is complete, or until a pretrial conference or some other time.").

17 Based on the foregoing objections, Responding Party will not respond to this
18 interrogatory at this time.

19 **Defendant Brant Blakeman's Contention**

20 The Interrogatory seeks witness information pertaining to any and all
21 persons who plaintiffs claim support a specific contention made against Brant
22 Blakeman in his personal capacity, not as a member of a group but as an
23 individual.

24 The interrogatories at issue merely seek the identification of witnesses and
25 the identification of the facts believed to be within those witnesses knowledge
26 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
27 personal capacity.

28 The discovery requests defined "BRANT BLAKEMAN" as follows:

1 BRANT BLAKEMAN means only Brant Blakeman in his
2 individual capacity. This definition expressly excludes
3 Brant Blakeman as an alleged member of what plaintiff
4 alleges are the "Lunada Bay Boys." This definition
5 expressly excludes the actions or omissions of any other
6 PERSON other than Brant Blakeman in his individual
7 capacity. This definition expressly excludes acts of
8 PERSONS other than Brant Blakeman that plaintiff
9 attributes to Brant Blakeman under a theory of Civil
10 Conspiracy.

11 Failure to produce the information sought by the Interrogatory is intended
12 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
13 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
14 hoping to take while he is unprepared in his defense to plaintiffs' contentions
15 against him.

16 The response offers only uniform boilerplate objections. Based on those
17 objections, the response asserts that no answers to the requests will be provided.
18 Because the objections are unmeritorious, a further, substantive response must be
19 compelled.

20 **1. Undue Burden, Harassment, and Duplication**

21 Plaintiff contends that identifying the witnesses to the claims against Mr.
22 Blakeman is unduly burdensome and harassing and the information can be found
23 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
24 identify only one witness with potential knowledge concerning Mr. Blakeman,
25 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
presented by this Interrogatory, then it certainly strains reason that answering it is
burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
did some act those witnesses likewise should be identified.

26 This objection by plaintiff is not a justification to refuse to provide a
27 response to the interrogatory.

28 ///

1 **2. The Interrogatory is Compound and has Subparts**

2 Plaintiff contends the Interrogatory is designed to circumvent the numerical
3 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
4 The Interrogatory seeks the identification of a witness and the facts within that
5 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
6 "discrete subparts." Seeking the identification of witnesses and the facts within
7 their knowledge are considered one interrogatory. (See *Chapman v. California*
8 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
9 mathematical exercise, even were one to entertain the contention that the
10 Interrogatory did not contain discrete subparts, there are only two: 12
11 interrogatories multiplied by two equals 24, which is within the limits of FRCP
12 Rule 33 which allows for 25 interrogatories.

13 This objection by plaintiff is not a justification to refuse to provide a
14 response to the Interrogatory.

15 **3. The Interrogatory Seeks Information that is Outside of**
16 **Responding Party's Knowledge**

17 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
18 knowledge. This objection either wholly lacks merit or there are very troubling
19 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

20 How is it that plaintiff can bring such egregious allegations without some
21 personal knowledge of witnesses who will support the allegations (including the
22 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
23 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
24 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
25 that support allegations, the response should merely state there are none.
26 Otherwise the witnesses should be identified.

27 This objection by plaintiff is not a justification to refuse to provide a
28 response to the Interrogatories.

1 **4. The Interrogatory Invades the Attorney Client Privilege**
2 **and Attorney Work Product Doctrine**

3 Plaintiff objects that identifying witnesses and the facts within a witness's
4 knowledge that supports allegations that Mr. Blakeman acted in some manner
5 invades the attorney client privilege. There is no legal support for withholding
6 witness identities based on the attorney client privilege. Personal knowledge
7 about facts are not privileged. "[T]he protection of the privilege extends only to
8 communications and not to facts. A fact is one thing and a communication
9 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
10 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

11 This objection by plaintiff is not a justification to refuse to provide a
12 response to the Interrogatory.

13 **5. The Interrogatory is Premature as a Contention Interrogatory**

14 Plaintiff alleges the Interrogatory seeks a contention and due to the early
15 state of litigation and pre-trial discovery, responding party is unable to provide a
16 complete response and, in any event, it is required to do so; citing to *Kmiec v.*
17 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
18 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
19 2014) at *1-2.; and FRCP Rule 33(a)(2).

20 While this is an argument that contention interrogatories can be delayed, the
21 subject interrogatories do not fall into that context; the responding party is the
22 party making the allegations, not the one responding to the allegations.

23 This action involves plaintiffs (bound by their own pleading) in their
24 individual capacities, as well as representative capacities, alleging intentional torts,
25 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
26 Blakeman which each of these plaintiffs make include accusation of involvement
27 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,
28 rape and similar egregious crimes. Having made these allegations Plaintiffs must

1 have some idea of the witnesses, documents or facts to support the allegations.
2 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

3 No substantive responses are provided. It is likely that no basis exists for
4 these allegations against Mr. Blakeman; he is entitled to know the basis before
5 facing a deposition by ambush.

6 Plaintiffs' refusal is fatally flawed in any event. The cases cited are
7 inapposite.

8 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that
9 asking contention interrogatories to a shareholder plaintiff early in litigation
10 required more time for the litigation to develop. Such is not the case with the
11 issues involved in this litigation, where Plaintiffs each claim to represent a class of
12 people and make specific allegations against Mr. Blakeman for which (if pled
13 honestly) Plaintiffs alone have the supporting facts.

14 *Folz* related to contention interrogatories on defendant's affirmative
15 defenses; something that clearly would involve significantly more discovery to
16 develop than is the situation here where defendant is simply seeking information
17 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
18 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
19 committed some act. This information will allow Mr. Blakeman to depose such
20 persons and to have a "just, speedy, and inexpensive determination [in this]
21 action." (FRCP Rule 1.)

22 The identification of witnesses is important not only to Mr. Blakeman's
23 defense but also because they would contribute meaningfully to narrow the scope
24 of the issues in dispute, set up early settlement discussions, and expose the
25 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*
26 *Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
27 are important in assessing whether it would be appropriate for the early use of
28 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

1 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
2 Rule 56 motions as there appears to be no evidence supporting the causes of action
3 against him. It also appears that there is a lack of evidence to even support
4 probable cause to pursue an action against him and a Rule 11 motion is likewise
5 being considered. The discovery is thus also intended to ferret out what appears to
6 be baseless character assassination.

7 *In re Convergent Technologies Securities Litigation* recognized the
8 importance of the identification of witnesses as a type of contention interrogatory
9 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
10 frame work it provides related to contention interrogatories, also noted that the
11 frame work does not apply to the identity of witnesses with knowledge of the facts
12 giving rise to the litigation or documents supporting material factual allegations.
13 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
14 litigation. (Id. 108 F.R.D. at 332-333).

15 The *In re Convergent Technologies Securities Litigation* frame work to be
16 applied to contention interrogatories has been examined in the Central District of
17 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175
18 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
19 explicated the evolution of the analysis of when contention interrogatories were
20 appropriate.

21 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of
22 the Federal Rules of Civil Procedure.

23 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be
24 construed to secure the just, speedy, and inexpensive determination of every
25 action.” “There probably is no provision in the federal rules that is more important
26 than this mandate. It reflects the spirit in which the rules were conceived and
27 written, and in which they should be, and by and large have been, interpreted.....
28 The Supreme Court of the United States has stated that these rules ‘are to be

1 accorded a broad and liberal treatment'." *Trevino v. Celanese Corp.*, 701 F.2d 397,
2 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,
3 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85
4 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.
5 Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

6 Judge Chapman allayed concerns about early use of contention
7 interrogatories and recognized that contention interrogatories are allowed under the
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10 be withdrawn or amended, and parties have an ongoing obligation to "seasonably
11 amend" answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

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12 necessary he easily meets it as there is no way he can potentially defend his case,
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16 Alternatively, plaintiffs cannot show that they could even meet their burden in
17 resisting disclosure of this information.

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19 violations of the Bane act) without having some witness to such acts by Mr.
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21 the Plaintiffs' initial disclosures that list only one witness who has some vague
22 unspecified knowledge about Blakeman.

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24 requested supporting information for these very specific allegations, should have
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1 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
2 Procedure.

3 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

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6 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
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9 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
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11 his contention interrogatories but, to date, has refused to produce any documents or
12 videos in response to Plaintiffs' discovery requests and in violation of his
13 obligations under Federal Rule 26(a).

14 1. **Unduly Burdensome, Harassing, and Duplicative**

15 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
16 claims against Blakeman on the grounds that they already disclosed the names of
17 potential witnesses in their initial and supplemental disclosures. Specifically,
18 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
19 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

20 Mr. Blakeman already has the list of potential witnesses in his possession.
21 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
22 to be compelled to identify these witnesses again.

23 2. **Compound**

24 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
25 knowledge of facts supporting their contentions and facts within each person's
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1 Courts have consistently concluded that an interrogatory that asks a party to
2 identify facts, documents, and witnesses should count as separate interrogatories.
3 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
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9 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

10 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
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18 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
19 To the extent Plaintiffs identify additional witnesses who support their claims
20 throughout the course of discovery in this matter, Plaintiffs are aware of their
21 obligation under the Federal Rules to timely supplement their discovery and
22 disclosures.

23 Plaintiffs' objection on the grounds that the interrogatories seek information
24 outside their knowledge is an objection *only to the extent* that the information
25 sought is outside the individually-responding Plaintiff's knowledge. Although
26 Plaintiffs neglected to include the words "to the extent that" preceding these
27 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
28 their objections to include this wording, if the Court so orders.

1 4. Attorney-Client Privilege and Attorney Work Product Doctrine

2 Plaintiffs objected to the interrogatories *to the extent that* they invade the
3 attorney-client privilege and/or the work product doctrine by compelling privileged
4 communication and/or litigation strategy. These objections are worded such that
5 either the attorney-client privilege or the attorney work product doctrine (or both)
6 could protect the information from disclosure. The objections do not state that
7 both privileges necessarily apply to each piece of information sought.

8 Furthermore, Plaintiffs do not claim that all information sought is privileged,
9 as evidenced by the inclusion of "to the extent that" preceding these objections.
10 Rather, Plaintiffs have applied the work product doctrine to protect trial
11 preparation materials that reveal attorney strategy, intended lines of proof,
12 evaluations of strengths and weaknesses, and inferences drawn from interviews.
13 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
14 Plaintiffs have applied the attorney-client privilege to protect confidential
15 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
16 (9th Cir. 2010).

17 5. Premature Contention Interrogatories

18 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
19 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
20 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
21 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
22 2014) at *1-2. This objection was proper.

23 Contention interrogatories need not be answered until discovery is
24 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
25 that discovery was not "substantially complete" when the discovery cutoff was 4
26 months away and depositions of fact witnesses or defendants had not yet occurred.
27 The court opined that "[i]f Defendants had completed their document production,
28 depositions were under way, and the discovery cutoff date was just a month or so

1 away, Defendants *might* be entitled to the information they seek. But under the
2 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
3 (emphasis added).

4 Similarly, the *Folz* court found that discovery was not substantially complete
5 and the responding party had adequate time to supplement his answers when the
6 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
7 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
8 2011), held that the responding party did not need to respond to contention
9 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

10 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
11 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
12 have produced any documents despite Plaintiffs' requests for production, and
13 Plaintiff Cory Spencer only produced his first set of documents on November 4,
14 2016. Additionally, the parties have only taken 6 out of the 20 possible
15 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
16 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
17 month. Thus, it is clear that the parties are in the early stages of discovery.
18 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
19 respond to Defendant Blakeman's premature contention interrogatories.

20

21 9. IDENTIFY ALL PERSONS that have knowledge of any facts that
22 support plaintiffs' Second Cause of Action in the Complaint (Public Nuisance)
23 against BRANT BLAKEMAN, and for each such PERSON identified state all
24 facts you contend are within that PERSON's knowledge.

25

Plaintiffs' Response to Interrogatory #9

26 Responding party objects to this interrogatory as unduly burdensome,
27 harassing, and duplicative of information disclosed in Responding Party's Rule
28 26(a) disclosures and supplemental disclosures. Propounding Party may look to

1 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
2 information sought by this interrogatory. Moreover, Responding Party had the
3 opportunity to depose Mr. Spencer on this topic.

4 Responding party further objects to this interrogatory as compound. This
5 "interrogatory" contains multiple impermissible subparts, which Propounding
6 Party has propounded in an effort to circumvent the numerical limitations on
7 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

8 Responding Party further objects to this interrogatory on the grounds that it
9 seeks information that is outside of Responding Party's knowledge.

10 Responding Party further objects to the extent that this interrogatory invades
11 attorney-client privilege and/or violates the work product doctrine by compelling
12 Responding Party to disclose privileged communications and/or litigation strategy.
13 Responding Party will not provide any such information.

14 Responding Party further objects to this interrogatory as premature. Because
15 this interrogatory seeks or necessarily relies upon a contention, and because this
16 matter is in its early stages and pretrial discovery has only just begun, Responding
17 Party is unable to provide a complete response at this time, nor is it required to do
18 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
19 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
20 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
21 order that [a contention] interrogatory need not be answered until designated
22 discovery is complete, or until a pretrial conference or some other time.").

23 Based on the foregoing objections, Responding Party will not respond to this
24 interrogatory at this time.

25 **Defendant Brant Blakeman's Contention**

26 The Interrogatory seeks witness information pertaining to any and all
27 persons who plaintiffs claim support a specific contention made against Brant
28 Blakeman in his personal capacity, not as a member of a group but as an

1 individual.

2 The interrogatories at issue merely seek the identification of witnesses and
3 the identification of the facts believed to be within those witnesses knowledge
4 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
5 personal capacity.

6 The discovery requests defined "BRANT BLAKEMAN" as follows:

7 BRANT BLAKEMAN means only Brant Blakeman in his
8 individual capacity. This definition expressly excludes
9 Brant Blakeman as an alleged member of what plaintiff
10 alleges are the "Lunada Bay Boys." This definition
11 expressly excludes the actions or omissions of any other
12 PERSON other than Brant Blakeman in his individual
13 capacity. This definition expressly excludes acts of
14 PERSONS other than Brant Blakeman that plaintiff
15 attributes to Brant Blakeman under a theory of Civil
16 Conspiracy.

17 Failure to produce the information sought by the Interrogatory is intended
18 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
19 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
hoping to take while he is unprepared in his defense to plaintiffs' contentions
against him.

20 The response offers only uniform boilerplate objections. Based on those
21 objections, the response asserts that no answers to the requests will be provided.
22 Because the objections are unmeritorious, a further, substantive response must be
23 compelled.

24 **1. Undue Burden, Harassment, and Duplication**

25 Plaintiff contends that identifying the witnesses to the claims against Mr.
26 Blakeman is unduly burdensome and harassing and the information can be found
27 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
28 identify only one witness with potential knowledge concerning Mr. Blakeman,

1 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
2 presented by this Interrogatory, then it certainly strains reason that answering it is
3 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
4 did some act those witnesses likewise should be identified.

5 This objection by plaintiff is not a justification to refuse to provide a
6 response to the interrogatory.

7 **2. The Interrogatory is Compound and has Subparts**

8 Plaintiff contends the Interrogatory is designed to circumvent the numerical
9 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
10 The Interrogatory seeks the identification of a witness and the facts within that
11 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
12 "discrete subparts." Seeking the identification of witnesses and the facts within
13 their knowledge are considered one interrogatory. (See *Chapman v. California*
14 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
15 mathematical exercise, even were one to entertain the contention that the
16 Interrogatory did not contain discrete subparts, there are only two: 12
17 interrogatories multiplied by two equals 24, which is within the limits of FRCP
18 Rule 33 which allows for 25 interrogatories.

19 This objection by plaintiff is not a justification to refuse to provide a
20 response to the Interrogatory.

21 **3. The Interrogatory Seeks Information that is Outside of**
22 **Responding Party's Knowledge**

23 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
24 knowledge. This objection either wholly lacks merit or there are very troubling
25 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

26 How is it that plaintiff can bring such egregious allegations without some
27 personal knowledge of witnesses who will support the allegations (including the
28 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing

1 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
2 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
3 that support allegations, the response should merely state there are none.
4 Otherwise the witnesses should be identified.

5 This objection by plaintiff is not a justification to refuse to provide a
6 response to the Interrogatories.

7 **4. The Interrogatory Invades the Attorney Client Privilege and**
8 **Attorney Work Product Doctrine**

9 Plaintiff objects that identifying witnesses and the facts within a witnesses
10 knowledge that supports allegations that Mr. Blakeman acted in some manner
11 invades the attorney client privilege. There is no legal support for withholding
12 witnesses identities based on the attorney client privilege. Personal knowledge
13 about facts are not privileged. "[T]he protection of the privilege extends only to
14 communications and not to facts. A fact is one thing and a communication
15 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
16 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

17 This objection by plaintiff is not a justification to refuse to provide a
18 response to the Interrogatory.

19 **5. The Interrogatory is Premature as a Contention Interrogatory**

20 Plaintiff alleges the Interrogatory seeks a contention and due to the early
21 state of litigation and pre-trial discovery, responding party is unable to provide a
22 complete response and, in any event, it is required to so; citing to *Kmiec v.*
23 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
24 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
25 2014) at *1-2.; and FRCP Rule 33(a)(2).

26 While this is an argument that contention interrogatories can be delayed, the
27 subject interrogatories do not fall into that context; the responding party is the
28 party making the allegations, not the one responding to the allegations.

1 This action involves plaintiffs (bound by their own pleading) in their
2 individual capacities, as well as representative capacities, alleging intentional torts,
3 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
4 Blakeman which each of these plaintiffs make include accusation of involvement
5 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,
6 rape and similar egregious crimes. Having made these allegations Plaintiffs must
7 have some idea of the witnesses, documents or facts to support the allegations.
8 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

9 No substantive responses are provided. It is likely that no basis exists for
10 these allegations against Mr. Blakeman; he is entitled to know the basis before
11 facing a deposition by ambush.

12 Plaintiffs' refusal is fatally flawed in any event. The cases cited are
13 inapposite.

14 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that
15 asking contention interrogatories to a shareholder plaintiff early in litigation
16 required more time for the litigation to develop. Such is not the case with the
17 issues involved in this litigation, where Plaintiffs each claim to represent a class of
18 people and make specific allegations against Mr. Blakeman for which (if pled
19 honestly) Plaintiffs alone have the supporting facts.

20 *Folz* related to contention interrogatories on defendant's affirmative
21 defenses; something that clearly would involve significantly more discovery to
22 develop than is the situation here where defendant is simply seeking information
23 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
24 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
25 committed some act. This information will allow Mr. Blakeman to depose such
26 persons and to have a "just, speedy, and inexpensive determination [in this]
27 action." (FRCP Rule 1.)

28 ///

1 The identification of witnesses is important not only to Mr. Blakeman's
2 defense but also because they would contribute meaningfully to narrow the scope
3 of the issues in dispute, set up early settlement discussions, and expose the
4 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*
5 *Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
6 are important in assessing whether it would be appropriate for the early use of
7 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,
8 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
9 Rule 56 motions as there appears to be no evidence supporting the causes of action
10 against him. It also appears that there is a lack of evidence to even support
11 probable cause to pursue an action against him and a Rule 11 motion is likewise
12 being considered. The discovery is thus also intended to ferret out what appears to
13 be baseless character assassination.

14 *In re Convergent Technologies Securities Litigation* recognized the
15 importance of the identification of witnesses as a type of contention interrogatory
16 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
17 frame work it provides related to contention interrogatories, also noted that the
18 frame work does not apply to the identity of witnesses with knowledge of the facts
19 giving rise to the litigation or documents supporting material factual allegations.
20 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
21 litigation. (Id. 108 F.R.D. at 332-333).

22 The *In re Convergent Technologies Securities Litigation* frame work to be
23 applied to contention interrogatories has been examined in the Central District of
24 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175
25 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
26 explicated the evolution of the analysis of when contention interrogatories were
27 appropriate.

28 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of

1 the Federal Rules of Civil Procedure.

2 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be
3 construed to secure the just, speedy, and inexpensive determination of every
4 action.” “There probably is no provision in the federal rules that is more important
5 than this mandate. It reflects the spirit in which the rules were conceived and
6 written, and in which they should be, and by and large have been, interpreted.....
7 The Supreme Court of the United States has stated that these rules ‘are to be
8 accorded a broad and liberal treatment.’” *Trevino v. Celanese Corp.*, 701 F.2d 397,
9 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,
10 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85
11 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.
12 Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

13 Judge Chapman allayed concerns about early use of contention
14 interrogatories and recognized that contention interrogatories are allowed under the
15 Federal Rules of Civil Procedure. Any concern about limiting proof based on
16 limited answers to interrogatories is not well-founded because such answers may
17 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
18 amend” answers throughout the litigation. (See *Id.*, 175 F.D.R. at 650-651.)

19 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent
20 Technologies Securities Litigation*, had recently even acknowledged the
21 importance of early use of contention interrogatories in certain matters:

22 In *Convergent Technologies*, Judge Wayne D. Brazil, in a
23 very thoughtful opinion, held that the 1983 amendments to
24 Fed.R.Civ.P. 26(b) compelled his conclusion that the
25 “wisest course is not to preclude entirely the early use of
26 contention interrogatories, but to place a burden of
27 justification on the party who seeks answers to these kinds
28 of questions before substantial documentary or testimonial
discovery has been completed.... [T]he propounding party
must present specific, plausible grounds for believing that
securing early answers to its contention questions will

1 materially advance the goals of the Federal Rules of Civil
2 Procedure.” 108 F.R.D. at 338–39. More recently,
3 however, Judge Brazil has modified his position, noting
4 that contention interrogatories may in certain cases be the
5 most reliable and cost-effective discovery device, which
6 would be less burdensome than depositions at which
7 contention questions are propounded. See *McCormick-*
8 *Morgan, Inc. v. Teledyne Industries, Inc.*, 134 F.R.D. 275,
9 287 (N.D.Cal.1991) (holding appropriately framed and
10 timed contention interrogatories rather than depositions in
11 patent infringement action was most appropriate vehicle
12 for establishing infringers' contentions). *Cable &*
13 *Computer Tech., Inc. v. Lockheed Sanders, Inc.*, 175
14 F.R.D. 646, 651–52 (C.D. Cal. 1997).

15 In fact Judge Chapman, instead of placing the burden on the party
16 propounding the request in justifying the need for early discovery on such issues,
17 found placing the burden on the party opposing responding to the request, as is
18 done normally, was more appropriate. (See Id., 175 F.R.D. at 652.)

19 In this case, though, the requests made by Blakeman are appropriate no
20 matter what analysis is applied to his alleged “contention interrogatories.” The
21 requests seek to identify witnesses. If Blakeman has the burden to show this is
22 necessary he easily meets it as there is no way he can potentially defend his case,
23 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
witnesses who supposedly support the allegations he is in a gang, that he commits
intentional torts of criminal nature, or that he is engaged in some act of negligence.
Alternatively, plaintiffs cannot show that they could even meet their burden in
resisting disclosure of this information.

24 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,
25 violations of the Bane act) without having some witness to such acts by Mr.
26 Blakeman let alone a witness who is a victim of such acts. This is compounded by
27 the Plaintiffs’ initial disclosures that list only one witness who has some vague
28 unspecified knowledge about Blakeman.

1 Surely Mr. Blakeman, who is accused of such things, and has timely
2 requested supporting information for these very specific allegations, should have
3 the opportunity to know about and to depose the witnesses who allegedly support
4 such allegations. Surely if no such persons exist then the lack of such evidence
5 must be exposed. Failing to indicate whether such evidence exists or does not
6 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
7 Procedure.

8 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

9 **Plaintiffs' Contention**

10 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
11 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
12 Plaintiffs are entitled to – and fully intend to – supplement their discovery
13 responses when they "learn[] that in some material respect the disclosure or
14 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
15 Defendant Blakeman is in control of much of the information needed to respond to
16 his contention interrogatories but, to date, has refused to produce any documents or
17 videos in response to Plaintiffs' discovery requests and in violation of his
18 obligations under Federal Rule 26(a).

19 1. **Unduly Burdensome, Harassing, and Duplicative**

20 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
21 claims against Blakeman on the grounds that they already disclosed the names of
22 potential witnesses in their initial and supplemental disclosures. Specifically,
23 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
24 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

25 Mr. Blakeman already has the list of potential witnesses in his possession.
26 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
27 to be compelled to identify these witnesses again.

28 ///

1 2. Compound

2 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
3 knowledge of facts supporting their contentions and facts within each person's
4 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
5 a party to 25 interrogatories propounded on any other party, including all discrete
6 subparts.

7 Courts have consistently concluded that an interrogatory that asks a party to
8 identify facts, documents, and witnesses should count as separate interrogatories.

9 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
10 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
11 documents, and witnesses,] and these subparts must be multiplied by the number of
12 RFAs that were not unqualified admissions"); *Superior Commc'n v. Earhugger,*
13 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
14 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
15 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

16 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
17 containing multiple impermissible subparts is wholly improper and therefore
18 Plaintiffs' objection on this ground was appropriate.

19 3. Information Outside Plaintiff's Knowledge

20 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
21 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
22 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
23 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
24 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
25 To the extent Plaintiffs identify additional witnesses who support their claims
26 throughout the course of discovery in this matter, Plaintiffs are aware of their
27 obligation under the Federal Rules to timely supplement their discovery and
28 disclosures.

1 Plaintiffs' objection on the grounds that the interrogatories seek information
2 outside their knowledge is an objection *only to the extent* that the information
3 sought is outside the individually-responding Plaintiff's knowledge. Although
4 Plaintiffs neglected to include the words "to the extent that" preceding these
5 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
6 their objections to include this wording, if the Court so orders.

7 4. Attorney-Client Privilege and Attorney Work Product Doctrine

8 Plaintiffs objected to the interrogatories *to the extent that* they invade the
9 attorney-client privilege and/or the work product doctrine by compelling privileged
10 communication and/or litigation strategy. These objections are worded such that
11 either the attorney-client privilege or the attorney work product doctrine (or both)
12 could protect the information from disclosure. The objections do not state that
13 both privileges necessarily apply to each piece of information sought.

14 Furthermore, Plaintiffs do not claim that all information sought is privileged,
15 as evidenced by the inclusion of "to the extent that" preceding these objections.
16 Rather, Plaintiffs have applied the work product doctrine to protect trial
17 preparation materials that reveal attorney strategy, intended lines of proof,
18 evaluations of strengths and weaknesses, and inferences drawn from interviews.
19 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
20 Plaintiffs have applied the attorney-client privilege to protect confidential
21 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
22 (9th Cir. 2010).

23 5. Premature Contention Interrogatories

24 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
25 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
26 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
27 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
28 2014) at *1-2. This objection was proper.

1 Contention interrogatories need not be answered until discovery is
2 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
3 that discovery was not "substantially complete" when the discovery cutoff was 4
months away and depositions of fact witnesses or defendants had not yet occurred.
4 The court opined that "[i]f Defendants had completed their document production,
5 depositions were under way, and the discovery cutoff date was just a month or so
6 away, Defendants **might** be entitled to the information they seek. But under the
7 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
8 (emphasis added).

10 Similarly, the *Folz* court found that discovery was not substantially complete
11 and the responding party had adequate time to supplement his answers when the
12 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
13 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
14 2011), held that the responding party did not need to respond to contention
15 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

16 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
17 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
18 have produced any documents despite Plaintiffs' requests for production, and
19 Plaintiff Cory Spencer only produced his first set of documents on November 4,
20 2016. Additionally, the parties have only taken 6 out of the 20 possible
21 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
22 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
23 month. Thus, it is clear that the parties are in the early stages of discovery.
24 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
25 respond to Defendant Blakeman's premature contention interrogatories.

26
27 10. IDENTIFY ALL PERSONS that have knowledge of any facts that
28 support plaintiffs' Sixth Cause of Action in the Complaint (Assault) against

1 BRANT BLAKEMAN, and for each such PERSON identified state all facts you
2 contend are within that PERSON's knowledge.

3 **Plaintiffs' Response to Interrogatory #10**

4 Responding party objects to this interrogatory as unduly burdensome,
5 harassing, and duplicative of information disclosed in Responding Party's Rule
6 26(a) disclosures and supplemental disclosures. Propounding Party may look to
7 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
8 information sought by this interrogatory. Moreover, Responding Party had the
9 opportunity to depose Mr. Spencer on this topic.

10 Responding party further objects to this interrogatory as compound. This
11 "interrogatory" contains multiple impermissible subparts, which Propounding
12 Party has propounded in an effort to circumvent the numerical limitations on
13 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

14 Responding Party further objects to this interrogatory on the grounds that it
15 seeks information that is outside of Responding Party's knowledge.

16 Responding Party further objects to the extent that this interrogatory invades
17 attorney-client privilege and/or violates the work product doctrine by compelling
18 Responding Party to disclose privileged communications and/or litigation strategy.
19 Responding Party will not provide any such information.

20 Responding Party further objects to this interrogatory as premature. Because
21 this interrogatory seeks or necessarily relies upon a contention, and because this
22 matter is in its early stages and pretrial discovery has only just begun, Responding
23 Party is unable to provide a complete response at this time, nor is it required to do
24 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
25 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
26 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) ("the court may
27 order that [a contention] interrogatory need not be answered until designated
28 discovery is complete, or until a pretrial conference or some other time.").

1 Based on the foregoing objections, Responding Party will not respond to this
2 interrogatory at this time.

3 **Defendant Brant Blakeman's Contention**

4 The Interrogatory seeks witness information pertaining to any and all
5 persons who plaintiffs claim support a specific contention made against Brant
6 Blakeman in his personal capacity, not as a member of a group but as an
7 individual.

8 The interrogatories at issue merely seek the identification of witnesses and
9 the identification of the facts believed to be within those witnesses knowledge
10 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
11 personal capacity.

12 The discovery requests defined "BRANT BLAKEMAN" as follows:

13 BRANT BLAKEMAN means only Brant Blakeman in his
14 individual capacity. This definition expressly excludes
15 Brant Blakeman as an alleged member of what plaintiff
16 alleges are the "Lunada Bay Boys." This definition
17 expressly excludes the actions or omissions of any other
18 PERSON other than Brant Blakeman in his individual
19 capacity. This definition expressly excludes acts of
PERSONS other than Brant Blakeman that plaintiff
attributes to Brant Blakeman under a theory of Civil
Conspiracy.

20
21 Failure to produce the information sought by the Interrogatory is intended
22 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
23 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
24 hoping to take while he is unprepared in his defense to plaintiffs' contentions
25 against him.

26 The response offers only uniform boilerplate objections. Based on those
27 objections, the response asserts that no answers to the requests will be provided.
28 Because the objections are unmeritorious, a further, substantive response must be

1 compelled.

2 **1. Undue Burden, Harassment, and Duplication**

3 Plaintiff contends that identifying the witnesses to the claims against Mr.
4 Blakeman is unduly burdensome and harassing and the information can be found
5 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
6 identify only one witness with potential knowledge concerning Mr. Blakeman,
7 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
8 presented by this Interrogatory, then it certainly strains reason that answering it is
9 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
10 did some act those witnesses likewise should be identified.

11 This objection by plaintiff is not a justification to refuse to provide a
12 response to the interrogatory.

13 **2. The Interrogatory is Compound and has Subparts**

14 Plaintiff contends the Interrogatory is designed to circumvent the numerical
15 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
16 The Interrogatory seeks the identification of a witness and the facts within that
17 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
18 "discrete subparts." Seeking the identification of witnesses and the facts within
19 their knowledge are considered one interrogatory. (See *Chapman v. California*
20 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
21 mathematical exercise, even were one to entertain the contention that the
22 Interrogatory did not contain discrete subparts, there are only two: 12
23 interrogatories multiplied by two equals 24, which is within the limits of FRCP
24 Rule 33 which allows for 25 interrogatories.

25 This objection by plaintiff is not a justification to refuse to provide a
26 response to the Interrogatory.

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1 **3. The Interrogatory Seeks Information that is Outside of**
2 **Responding Party's Knowledge**

3 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
4 knowledge. This objection either wholly lacks merit or there are very troubling
5 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

6 How is it that plaintiff can bring such egregious allegations without some
7 personal knowledge of witnesses who will support the allegations (including the
8 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
9 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
10 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
11 that support allegations, the response should merely state there are none.
12 Otherwise the witnesses should be identified.

13 This objection by plaintiff is not a justification to refuse to provide a
14 response to the Interrogatories.

15 **4. The Interrogatory Invades the Attorney Client Privilege and**
16 **Attorney Work Product Doctrine**

17 Plaintiff objects that identifying witnesses and the facts within a witnesses
18 knowledge that supports allegations that Mr. Blakeman acted in some manner
19 invades the attorney client privilege. There is no legal support for withholding
20 witnesses identities based on the attorney client privilege. Personal knowledge
21 about facts are not privileged. "[T]he protection of the privilege extends only to
22 communications and not to facts. A fact is one thing and a communication
23 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
24 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

25 This objection by plaintiff is not a justification to refuse to provide a
26 response to the Interrogatory.

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1 **5. The Interrogatory is Premature as a Contention Interrogatory**

2 Plaintiff alleges the Interrogatory seeks a contention and due to the early
3 state of litigation and pre-trial discovery, responding party is unable to provide a
4 complete response and, in any event, it is required to so; citing to *Kmiec v.*
5 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
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7 2014) at *1-2.; and FRCP Rule 33(a)(2).

8 While this is an argument that contention interrogatories can be delayed, the
9 subject interrogatories do not fall into that context; the responding party is the
10 party making the allegations, not the one responding to the allegations.

11 This action involves plaintiffs (bound by their own pleading) in their
12 individual capacities, as well as representative capacities, alleging intentional torts,
13 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
14 Blakeman which each of these plaintiffs make include accusation of involvement
15 in “predicate crimes” which include, for example, murder, mayhem, counterfeiting,
16 rape and similar egregious crimes. Having made these allegations Plaintiffs must
17 have some idea of the witnesses, documents or facts to support the allegations.
18 Plaintiffs’ counsel must also have some basis else they run afoul of Rule 11.

19 No substantive responses are provided. It is likely that no basis exists for
20 these allegations against Mr. Blakeman; he is entitled to know the basis before
21 facing a deposition by ambush.

22 Plaintiffs’ refusal is fatally flawed in any event. The cases cited are
23 inapposite.

24 *Kmiec* was a securities litigation matter. In context, *Kmiec* reasoned that
25 asking contention interrogatories to a shareholder plaintiff early in litigation
26 required more time for the litigation to develop. Such is not the case with the
27 issues involved in this litigation, where Plaintiffs each claim to represent a class of
28 people and make specific allegations against Mr. Blakeman for which (if pled

1 honestly) Plaintiffs alone have the supporting facts.

2 *Folz* related to contention interrogatories on defendant's affirmative
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4 develop than is the situation here where defendant is simply seeking information
5 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
6 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
7 committed some act. This information will allow Mr. Blakeman to depose such
8 persons and to have a "just, speedy, and inexpensive determination [in this]
9 action." (FRCP Rule 1.)

10 The identification of witnesses is important not only to Mr. Blakeman's
11 defense but also because they would contribute meaningfully to narrow the scope
12 of the issues in dispute, set up early settlement discussions, and expose the
13 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.
14 Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
15 are important in assessing whether it would be appropriate for the early use of
16 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,
17 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
18 Rule 56 motions as there appears to be no evidence supporting the causes of action
19 against him. It also appears that there is a lack of evidence to even support
20 probable cause to pursue an action against him and a Rule 11 motion is likewise
21 being considered. The discovery is thus also intended to ferret out what appears to
22 be baseless character assassination.

23 *In re Convergent Technologies Securities Litigation* recognized the
24 importance of the identification of witnesses as a type of contention interrogatory
25 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
26 frame work it provides related to contention interrogatories, also noted that the
27 frame work does not apply to the identity of witnesses with knowledge of the facts
28 giving rise to the litigation or documents supporting material factual allegations.

1 (See Id.) The Court compelled the disclosure of the identity of witnesses early in
2 litigation. (Id. 108 F.R.D. at 332-333).

3 The *In re Convergent Technologies Securities Litigation* frame work to be
4 applied to contention interrogatories has been examined in the Central District of
5 California in *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*, 175
6 F.R.D. 646, 651 (C.D. Cal. 1997). This Court, in *Cable & Computer Tech., Inc.*,
7 explicated the evolution of the analysis of when contention interrogatories were
8 appropriate.

9 Judge Chapman in *Cable & Computer Tech., Inc.* first noted the purpose of
10 the Federal Rules of Civil Procedure.

11 Rule 1 of the Federal Rules of Civil Procedure directs that the rules “shall be
12 construed to secure the just, speedy, and inexpensive determination of every
13 action.” “There probably is no provision in the federal rules that is more important
14 than this mandate. It reflects the spirit in which the rules were conceived and
15 written, and in which they should be, and by and large have been, interpreted.....
16 The Supreme Court of the United States has stated that these rules ‘are to be
17 accorded a broad and liberal treatment.’” *Trevino v. Celanese Corp.*, 701 F.2d 397,
18 405 (5th Cir.1983) (citing *Hickman v. Taylor*, 329 U.S. 495, 507, 67 S.Ct. 385,
19 391, 91 L.Ed. 451 (1947) and *Schlagenhauf v. Holder*, 379 U.S. 104, 114–15, 85
20 S.Ct. 234, 240, 13 L.Ed.2d 152 (1964)). (*Cable & Computer Tech., Inc. v.
21 Lockheed Saunders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997).)

22 Judge Chapman allayed concerns about early use of contention
23 interrogatories and recognized that contention interrogatories are allowed under the
24 Federal Rules of Civil Procedure. Any concern about limiting proof based on
25 limited answers to interrogatories is not well-founded because such answers may
26 be withdrawn or amended, and parties have an ongoing obligation to “seasonably
27 amend” answers throughout the litigation. (See Id., 175 F.D.R. at 650-651.)

28 Judge Chapman then noted that Judge Brazil, the author of *In re Convergent*

1 *Technologies Securities Litigation*, had recently even acknowledged the
2 importance of early use of contention interrogatories in certain matters:

3 *In Convergent Technologies*, Judge Wayne D. Brazil, in a
4 very thoughtful opinion, held that the 1983 amendments to
5 Fed.R.Civ.P. 26(b) compelled his conclusion that the
6 “wisest course is not to preclude entirely the early use of
7 contention interrogatories, but to place a burden of
8 justification on the party who seeks answers to these kinds
9 of questions before substantial documentary or testimonial
10 discovery has been completed.... [T]he propounding party
11 must present specific, plausible grounds for believing that
12 securing early answers to its contention questions will
13 materially advance the goals of the Federal Rules of Civil
14 Procedure.” 108 F.R.D. at 338–39. More recently,
15 however, Judge Brazil has modified his position, noting
16 that contention interrogatories may in certain cases be the
17 most reliable and cost-effective discovery device, which
18 would be less burdensome than depositions at which
19 contention questions are propounded. See *McCormick–*
Morgan, Inc. v. Teledyne Industries, Inc., 134 F.R.D. 275,
287 (N.D.Cal.1991) (holding appropriately framed and
timed contention interrogatories rather than depositions in
patent infringement action was most appropriate vehicle
for establishing infringers' contentions). *Cable &*
Computer Tech., Inc. v. Lockheed Saunders, Inc., 175
F.R.D. 646, 651–52 (C.D. Cal. 1997).

20 In fact Judge Chapman, instead of placing the burden on the party
21 propounding the request in justifying the need for early discovery on such issues,
22 found placing the burden on the party opposing responding to the request, as is
23 done normally, was more appropriate. (See *Id.*, 175 F.R.D. at 652.)

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1 In this case, though, the requests made by Blakeman are appropriate no
2 matter what analysis is applied to his alleged “contention interrogatories.” The
3 requests seek to identify witnesses. If Blakeman has the burden to show this is
4 necessary he easily meets it as there is no way he can potentially defend his case,
5 bring motions under Rule 56, or bring motions under Rule 11 without knowing the
6 witnesses who supposedly support the allegations he is in a gang, that he commits
7 intentional torts of criminal nature, or that he is engaged in some act of negligence.
8 Alternatively, plaintiffs cannot show that they could even meet their burden in
9 resisting disclosure of this information.

10 How could plaintiffs’ bring such egregious allegations (i.e. assault, battery,
11 violations of the Bane act) without having some witness to such acts by Mr.
12 Blakeman let alone a witness who is a victim of such acts. This is compounded by
13 the Plaintiffs’ initial disclosures that list only one witness who has some vague
14 unspecified knowledge about Blakeman.

15 Surely Mr. Blakeman, who is accused of such things, and has timely
16 requested supporting information for these very specific allegations, should have
17 the opportunity to know about and to depose the witnesses who allegedly support
18 such allegations. Surely if no such persons exist then the lack of such evidence
19 must be exposed. Failing to indicate whether such evidence exists or does not
20 exists only serves to thwart the truth and the spirit of the Federal Rules of Civil
21 Procedure.

22 Plaintiffs’ objection is not a basis to avoid answering this interrogatory.

23 **Plaintiffs' Contention**

24 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
25 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
26 Plaintiffs are entitled to – and fully intend to – supplement their discovery
27 responses when they "learn[] that in some material respect the disclosure or
28 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,

1 Defendant Blakeman is in control of much of the information needed to respond to
2 his contention interrogatories but, to date, has refused to produce any documents or
3 videos in response to Plaintiffs' discovery requests and in violation of his
4 obligations under Federal Rule 26(a).

5 1. Unduly Burdensome, Harassing, and Duplicative

6 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
7 claims against Blakeman on the grounds that they already disclosed the names of
8 potential witnesses in their initial and supplemental disclosures. Specifically,
9 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
10 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

11 Mr. Blakeman already has the list of potential witnesses in his possession.
12 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
13 to be compelled to identify these witnesses again.

14 2. Compound

15 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
16 knowledge of facts supporting their contentions and facts within each person's
17 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
18 a party to 25 interrogatories propounded on any other party, including all discrete
19 subparts.

20 Courts have consistently concluded that an interrogatory that asks a party to
21 identify facts, documents, and witnesses should count as separate interrogatories.
22 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
23 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
24 documents, and witnesses,] and these subparts must be multiplied by the number of
25 RFAs that were not unqualified admissions"); *Superior Commc'nns v. Earhugger,*
26 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
27 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
28 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

1 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
2 containing multiple impermissible subparts is wholly improper and therefore
3 Plaintiffs' objection on this ground was appropriate.

4 3. Information Outside Plaintiff's Knowledge

5 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
6 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
7 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
8 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
9 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
10 To the extent Plaintiffs identify additional witnesses who support their claims
11 throughout the course of discovery in this matter, Plaintiffs are aware of their
12 obligation under the Federal Rules to timely supplement their discovery and
13 disclosures.

14 Plaintiffs' objection on the grounds that the interrogatories seek information
15 outside their knowledge is an objection *only to the extent* that the information
16 sought is outside the individually-responding Plaintiff's knowledge. Although
17 Plaintiffs neglected to include the words "to the extent that" preceding these
18 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
19 their objections to include this wording, if the Court so orders.

20 4. Attorney-Client Privilege and Attorney Work Product Doctrine

21 Plaintiffs objected to the interrogatories *to the extent that* they invade the
22 attorney-client privilege and/or the work product doctrine by compelling privileged
23 communication and/or litigation strategy. These objections are worded such that
24 either the attorney-client privilege or the attorney work product doctrine (or both)
25 could protect the information from disclosure. The objections do not state that
26 both privileges necessarily apply to each piece of information sought.

27 Furthermore, Plaintiffs do not claim that all information sought is privileged,
28 as evidenced by the inclusion of "to the extent that" preceding these objections.

1 Rather, Plaintiffs have applied the work product doctrine to protect trial
2 preparation materials that reveal attorney strategy, intended lines of proof,
3 evaluations of strengths and weaknesses, and inferences drawn from interviews.
4 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
5 Plaintiffs have applied the attorney-client privilege to protect confidential
6 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
7 (9th Cir. 2010).

8 5. Premature Contention Interrogatories

9 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
10 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
11 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
12 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
13 2014) at *1-2. This objection was proper.

14 Contention interrogatories need not be answered until discovery is
15 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
16 that discovery was not "substantially complete" when the discovery cutoff was 4
17 months away and depositions of fact witnesses or defendants had not yet occurred.
18 The court opined that "[i]f Defendants had completed their document production,
19 depositions were under way, and the discovery cutoff date was just a month or so
20 away, Defendants **might** be entitled to the information they seek. But under the
21 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
22 (emphasis added).

23 Similarly, the *Folz* court found that discovery was not substantially complete
24 and the responding party had adequate time to supplement his answers when the
25 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
26 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
27 2011), held that the responding party did not need to respond to contention
28 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

1 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
2 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
3 have produced any documents despite Plaintiffs' requests for production, and
4 Plaintiff Cory Spencer only produced his first set of documents on November 4,
5 2016. Additionally, the parties have only taken 6 out of the 20 possible
6 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
7 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
8 month. Thus, it is clear that the parties are in the early stages of discovery.
9 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
10 respond to Defendant Blakeman's premature contention interrogatories.

11

12 11. IDENTIFY ALL PERSONS that have knowledge of any facts that
13 support plaintiffs' Seventh Cause of Action in the Complaint (Battery) against
14 BRANT BLAKEMAN, and for each such PERSON identified state all facts you
15 contend are within that PERSON's knowledge.

16

Plaintiffs' Response to Interrogatory #11

17 Responding party objects to this interrogatory as unduly burdensome,
18 harassing, and duplicative of information disclosed in Responding Party's Rule
19 26(a) disclosures and supplemental disclosures. Propounding Party may look to
20 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
21 information sought by this interrogatory. Moreover, Responding Party had the
22 opportunity to depose Mr. Spencer on this topic.

23 Responding party further objects to this interrogatory as compound. This
24 "interrogatory" contains multiple impermissible subparts, which Propounding
25 Party has propounded in an effort to circumvent the numerical limitations on
26 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

27 Responding Party further objects to this interrogatory on the grounds that it
28 seeks information that is outside of Responding Party's knowledge.

1 Responding Party further objects to the extent that this interrogatory invades
2 attorney-client privilege and/or violates the work product doctrine by compelling
3 Responding Party to disclose privileged communications and/or litigation strategy.
4 Responding Party will not provide any such information.

5 Responding Party further objects to this interrogatory as premature. Because
6 this interrogatory seeks or necessarily relies upon a contention, and because this
7 matter is in its early stages and pretrial discovery has only just begun, Responding
8 Party is unable to provide a complete response at this time, nor is it required to do
9 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
10 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
11 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may
12 order that [a contention] interrogatory need not be answered until designated
13 discovery is complete, or until a pretrial conference or some other time.”).

14 Based on the foregoing objections, Responding Party will not respond to this
15 interrogatory at this time.

16 **Defendant Brant Blakeman's Contention**

17 The Interrogatory seeks witness information pertaining to any and all
18 persons who plaintiffs claim support a specific contention made against Brant
19 Blakeman in his personal capacity, not as a member of a group but as an
20 individual.

21 The interrogatories at issue merely seek the identification of witnesses and
22 the identification of the facts believed to be within those witnesses knowledge
23 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
24 personal capacity.

25 The discovery requests defined "BRANT BLAKEMAN" as follows:

26 BRANT BLAKEMAN means only Brant Blakeman in his
27 individual capacity. This definition expressly excludes
28 Brant Blakeman as an alleged member of what plaintiff
alleges are the "Lunada Bay Boys." This definition
expressly excludes the actions or omissions of any other

1 PERSON other than Brant Blakeman in his individual
2 capacity. This definition expressly excludes acts of
3 PERSONS other than Brant Blakeman that plaintiff
4 attributes to Brant Blakeman under a theory of Civil
5 Conspiracy.

6 Failure to produce the information sought by the Interrogatory is intended
7 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
8 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
9 hoping to take while he is unprepared in his defense to plaintiffs' contentions
against him.

10 The response offers only uniform boilerplate objections. Based on those
11 objections, the response asserts that no answers to the requests will be provided.
12 Because the objections are unmeritorious, a further, substantive response must be
13 compelled.

14 **1. Undue Burden, Harassment, and Duplication**

15 Plaintiff contends that identifying the witnesses to the claims against Mr.
16 Blakeman is unduly burdensome and harassing and the information can be found
17 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
18 identify only one witness with potential knowledge concerning Mr. Blakeman,
19 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
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18 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
19 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
20 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
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24 rape and similar egregious crimes. Having made these allegations Plaintiffs must
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26 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

27 No substantive responses are provided. It is likely that no basis exists for
28 these allegations against Mr. Blakeman; he is entitled to know the basis before

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16 persons and to have a "just, speedy, and inexpensive determination [in this]
17 action." (FRCP Rule 1.)

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29 In this case, though, the requests made by Blakeman are appropriate no
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19 Procedure.

20 Plaintiffs' objection is not a basis to avoid answering this interrogatory.

21 **Plaintiffs' Contention**

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to – and fully intend to – supplement their discovery
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26 response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). Additionally,
27 Defendant Blakeman is in control of much of the information needed to respond to
28 his contention interrogatories but, to date, has refused to produce any documents or

1 videos in response to Plaintiffs' discovery requests and in violation of his
2 obligations under Federal Rule 26(a).

3 1. Unduly Burdensome, Harassing, and Duplicate

4 Plaintiffs objected to Mr. Blakeman's request to identify witnesses to the
5 claims against Blakeman on the grounds that they already disclosed the names of
6 potential witnesses in their initial and supplemental disclosures. Specifically,
7 Plaintiffs listed 105 witnesses in its October 2, 2016 supplemental disclosures, a
8 number of whom likely witnessed the claims pertaining to Mr. Blakeman.

9 Mr. Blakeman already has the list of potential witnesses in his possession.
10 Therefore, it would be unduly burdensome, harassing, and duplicative for Plaintiffs
11 to be compelled to identify these witnesses again.

12 2. Compound

13 Plaintiffs objected to Mr. Blakeman's requests to identify persons with
14 knowledge of facts supporting their contentions and facts within each person's
15 knowledge on the basis that they are compound. Fed. R. Civ. Proc. 33(a)(1) limits
16 a party to 25 interrogatories propounded on any other party, including all discrete
17 subparts.

18 Courts have consistently concluded that an interrogatory that asks a party to
19 identify facts, documents, and witnesses should count as separate interrogatories.
20 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
21 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
22 documents, and witnesses,] and these subparts must be multiplied by the number of
23 RFAs that were not unqualified admissions"); *Superior Commc'n's v. Earhugger,*
24 *Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and
25 documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S.
26 Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

27 Mr. Blakeman's attempt to subvert the rules by asking interrogatories
28 containing multiple impermissible subparts is wholly improper and therefore

1 Plaintiffs' objection on this ground was appropriate.

2 3. Information Outside Plaintiff's Knowledge

3 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their
4 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of
5 witnesses to support their allegations. To the contrary, Plaintiffs have identified in
6 their October 2, 2016, supplemental disclosures 105 witnesses who may possess
7 knowledge of the allegations. Moreover, discovery in this matter is in its infancy.
8 To the extent Plaintiffs identify additional witnesses who support their claims
9 throughout the course of discovery in this matter, Plaintiffs are aware of their
10 obligation under the Federal Rules to timely supplement their discovery and
11 disclosures.

12 Plaintiffs' objection on the grounds that the interrogatories seek information
13 outside their knowledge is an objection *only to the extent* that the information
14 sought is outside the individually-responding Plaintiff's knowledge. Although
15 Plaintiffs neglected to include the words "to the extent that" preceding these
16 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend
17 their objections to include this wording, if the Court so orders.

18 4. Attorney-Client Privilege and Attorney Work Product Doctrine

19 Plaintiffs objected to the interrogatories *to the extent that* they invade the
20 attorney-client privilege and/or the work product doctrine by compelling privileged
21 communication and/or litigation strategy. These objections are worded such that
22 either the attorney-client privilege or the attorney work product doctrine (or both)
23 could protect the information from disclosure. The objections do not state that
24 both privileges necessarily apply to each piece of information sought.

25 Furthermore, Plaintiffs do not claim that all information sought is privileged,
26 as evidenced by the inclusion of "to the extent that" preceding these objections.
27 Rather, Plaintiffs have applied the work product doctrine to protect trial
28 preparation materials that reveal attorney strategy, intended lines of proof,

1 evaluations of strengths and weaknesses, and inferences drawn from interviews.
2 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
3 Plaintiffs have applied the attorney-client privilege to protect confidential
4 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
5 (9th Cir. 2010).

6 5. Premature Contention Interrogatories

7 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
8 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
9 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
10 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
11 2014) at *1-2. This objection was proper.

12 Contention interrogatories need not be answered until discovery is
13 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
14 that discovery was not "substantially complete" when the discovery cutoff was 4
15 months away and depositions of fact witnesses or defendants had not yet occurred.
16 The court opined that "[i]f Defendants had completed their document production,
17 depositions were under way, and the discovery cutoff date was just a month or so
18 away, Defendants **might** be entitled to the information they seek. But under the
19 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
20 (emphasis added).

21 Similarly, the *Folz* court found that discovery was not substantially complete
22 and the responding party had adequate time to supplement his answers when the
23 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
24 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
25 2011), held that the responding party did not need to respond to contention
26 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

27 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
28 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –

1 have produced any documents despite Plaintiffs' requests for production, and
2 Plaintiff Cory Spencer only produced his first set of documents on November 4,
3 2016. Additionally, the parties have only taken 6 out of the 20 possible
4 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
5 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
6 month. Thus, it is clear that the parties are in the early stages of discovery.
7 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
8 respond to Defendant Blakeman's premature contention interrogatories.

9
10 12. IDENTIFY ALL PERSONS that have knowledge of any facts that
11 support plaintiffs' Eighth Cause of Action in the Complaint (Negligence) against
12 BRANT BLAKEMAN, and for each such PERSON identified state all facts you
13 contend are within that PERSON's knowledge.

14 **Plaintiffs' Response to Interrogatory #12**

15 Responding party objects to this interrogatory as unduly burdensome,
16 harassing, and duplicative of information disclosed in Responding Party's Rule
17 26(a) disclosures and supplemental disclosures. Propounding Party may look to
18 Responding Party's Rule 26(a) disclosures and supplemental disclosures for the
19 information sought by this interrogatory. Moreover, Responding Party had the
20 opportunity to depose Mr. Spencer on this topic.

21 Responding party further objects to this interrogatory as compound. This
22 "interrogatory" contains multiple impermissible subparts, which Propounding
23 Party has propounded in an effort to circumvent the numerical limitations on
24 interrogatories provided by Federal Rule of Civil Procedure 33(a)(1).

25 Responding Party further objects to this interrogatory on the grounds that it
26 seeks information that is outside of Responding Party's knowledge.

27 Responding Party further objects to the extent that this interrogatory invades
28 attorney-client privilege and/or violates the work product doctrine by compelling

- 1 Responding Party to disclose privileged communications and/or litigation strategy.
2 Responding Party will not provide any such information.

3 Responding Party further objects to this interrogatory as premature. Because
4 this interrogatory seeks or necessarily relies upon a contention, and because this
5 matter is in its early stages and pretrial discovery has only just begun, Responding
6 Party is unable to provide a complete response at this time, nor is it required to do
7 so. See *Kmiec v. Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal.
8 Dec. 2, 2014) at *1; *Folz v. Union Pacific Railroad Company*, 2014 WL357929
9 (S.D. Cal. Jan. 31 2014) at *1-2.; see also Fed. R. Civ. P. 33(a)(2) (“the court may
10 order that [a contention] interrogatory need not be answered until designated
11 discovery is complete, or until a pretrial conference or some other time.”).

12 Based on the foregoing objections, Responding Party will not respond to this
13 interrogatory at this time.

14 **Defendant Brant Blakeman's Contention**

15 The Interrogatory seeks witness information pertaining to any and all
16 persons who plaintiffs claim support a specific contention made against Brant
17 Blakeman in his personal capacity, not as a member of a group but as an
18 individual.

19 The interrogatories at issue merely seek the identification of witnesses and
20 the identification of the facts believed to be within those witnesses knowledge
21 purportedly supporting plaintiffs' specific allegations against Mr. Blakeman in his
22 personal capacity.

23 The discovery requests defined "BRANT BLAKEMAN" as follows:

24 BRANT BLAKEMAN means only Brant Blakeman in his
25 individual capacity. This definition expressly excludes
26 Brant Blakeman as an alleged member of what plaintiff
27 alleges are the "Lunada Bay Boys." This definition
28 expressly excludes the actions or omissions of any other
PERSON other than Brant Blakeman in his individual
capacity. This definition expressly excludes acts of

1 PERSONS other than Brant Blakeman that plaintiff
2 attributes to Brant Blakeman under a theory of Civil
3 Conspiracy.

4 Failure to produce the information sought by the Interrogatory is intended
5 only to prejudice Mr. Blakeman's defenses; especially in light of the fact that
6 plaintiffs are pressing for Mr. Blakeman's deposition for which they are purposely
7 hoping to take while he is unprepared in his defense to plaintiffs' contentions
8 against him.

9 The response offers only uniform boilerplate objections. Based on those
10 objections, the response asserts that no answers to the requests will be provided.
11 Because the objections are unmeritorious, a further, substantive response must be
12 compelled.

13 **1. Undue Burden, Harassment, and Duplication**

14 Plaintiff contends that identifying the witnesses to the claims against Mr.
15 Blakeman is unduly burdensome and harassing and the information can be found
16 in the initial and supplemental disclosures. Plaintiffs in their initial disclosure
17 identify only one witness with potential knowledge concerning Mr. Blakeman,
18 Ken Claypool. If this is the only witness that plaintiff is aware of for the inquiry
19 presented by this Interrogatory, then it certainly strains reason that answering it is
20 burdensome or harassing. If there are other witnesses that allege Mr. Blakeman
21 did some act those witnesses likewise should be identified.

22 This objection by plaintiff is not a justification to refuse to provide a
23 response to the interrogatory.

24 ///

25 ///

26 ///

27 ///

28

1 **2. The Interrogatory is Compound and has Subparts**

2 Plaintiff contends the Interrogatory is designed to circumvent the numerical
3 limitations provided in FRCP Rule 33(a)(1). This objection wholly lacks merit.
4 The Interrogatory seeks the identification of a witness and the facts within that
5 witnesses knowledge. FRCP Rule 33 allows the interrogatories to include
6 "discrete subparts." Seeking the identification of witnesses and the facts within
7 their knowledge are considered one interrogatory. (See *Chapman v. California*
8 *Dept. of Educ.*, 2002 WL 32854376, at *1 (N.D.Cal.,2002)). For sake of
9 mathematical exercise, even were one to entertain the contention that the
10 Interrogatory did not contain discrete subparts, there are only two: 12
11 interrogatories multiplied by two equals 24, which is within the limits of FRCP
12 Rule 33 which allows for 25 interrogatories.

13 This objection by plaintiff is not a justification to refuse to provide a
14 response to the Interrogatory.

15 **3. The Interrogatory Seeks Information that is Outside of**
16 **Responding Party's Knowledge**

17 Plaintiff alleges that the Interrogatory seeks information outside of plaintiff's
18 knowledge. This objection either wholly lacks merit or there are very troubling
19 issues related to the plaintiffs' and their counsels' obligations under FRCP Rule 11.

20 How is it that plaintiff can bring such egregious allegations without some
21 personal knowledge of witnesses who will support the allegations (including the
22 plaintiff's own knowledge)? Are plaintiff's openly admitting this is a fishing
23 expedition against Mr. Blakeman and they were in violation of Rule 11 when the
24 complaint was filed? If plaintiff does not have knowledge the identity of witnesses
25 that support allegations, the response should merely state there are none.
26 Otherwise the witnesses should be identified.

27 This objection by plaintiff is not a justification to refuse to provide a
28 response to the Interrogatories.

1 **4. The Interrogatory Invades the Attorney Client Privilege and**
2 **Attorney Work Product Doctrine**

3 Plaintiff objects that identifying witnesses and the facts within a witness's
4 knowledge that supports allegations that Mr. Blakeman acted in some manner
5 invades the attorney client privilege. There is no legal support for withholding
6 witness identities based on the attorney client privilege. Personal knowledge
7 about facts are not privileged. "[T]he protection of the privilege extends only to
8 communications and not to facts. A fact is one thing and a communication
9 concerning that fact is an entirely different thing." (*Upjohn Co. v. U.S.*, 101 S.Ct.
10 677, 685-86, 449 U.S. 383, 395-96 (U.S.Mich.,1981)).

11 This objection by plaintiff is not a justification to refuse to provide a
12 response to the Interrogatory.

13 **5. The Interrogatory is Premature as a Contention Interrogatory**

14 Plaintiff alleges the Interrogatory seeks a contention and due to the early
15 state of litigation and pre-trial discovery, responding party is unable to provide a
16 complete response and, in any event, it is required to do so; citing to *Kmiec v.*
17 *Powerwave Techs. Inc. et al.*, 2014 WL 11512195 (C.D. Cal. Dec. 2, 2014) at *1;
18 *Folz v. Union Pacific Railroad Company*, 2014 WL357929 (S.D. Cal. Jan. 31
19 2014) at *1-2.; and FRCP Rule 33(a)(2).

20 While this is an argument that contention interrogatories can be delayed, the
21 subject interrogatories do not fall into that context; the responding party is the
22 party making the allegations, not the one responding to the allegations.

23 This action involves plaintiffs (bound by their own pleading) in their
24 individual capacities, as well as representative capacities, alleging intentional torts,
25 nuisance, and negligence against Mr. Blakeman. The allegations against Mr.
26 Blakeman which each of these plaintiffs make include accusation of involvement
27 in "predicate crimes" which include, for example, murder, mayhem, counterfeiting,
28 rape and similar egregious crimes. Having made these allegations Plaintiffs must

1 have some idea of the witnesses, documents or facts to support the allegations.
2 Plaintiffs' counsel must also have some basis else they run afoul of Rule 11.

3 No substantive responses are provided. It is likely that no basis exists for
4 these allegations against Mr. Blakeman; he is entitled to know the basis before
5 facing a deposition by ambush.

6 Plaintiffs' refusal is fatally flawed in any event. The cases cited are
7 inapposite.

8 *Kmeic* was a securities litigation matter. In context, *Kmeic* reasoned that
9 asking contention interrogatories to a shareholder plaintiff early in litigation
10 required more time for the litigation to develop. Such is not the case with the
11 issues involved in this litigation, where Plaintiffs each claim to represent a class of
12 people and make specific allegations against Mr. Blakeman for which (if pled
13 honestly) Plaintiffs alone have the supporting facts.

14 *Folz* related to contention interrogatories on defendant's affirmative
15 defenses; something that clearly would involve significantly more discovery to
16 develop than is the situation here where defendant is simply seeking information
17 regarding contention's made by plaintiffs in their initial pleadings; seeking only the
18 identification of witnesses that support plaintiffs' contentions that Mr. Blakeman
19 committed some act. This information will allow Mr. Blakeman to depose such
20 persons and to have a "just, speedy, and inexpensive determination [in this]
21 action." (FRCP Rule 1.)

22 The identification of witnesses is important not only to Mr. Blakeman's
23 defense but also because they would contribute meaningfully to narrow the scope
24 of the issues in dispute, set up early settlement discussions, and expose the
25 potential bases for a Rule 11 motion and Rule 56 motion. (See *HTC Corp. v.*
26 *Technology Properties Ltd.*, 2011 WL 97787, at *2 (N.D.Cal.,2011) These factors
27 are important in assessing whether it would be appropriate for the early use of
28 contention interrogatories(See *In re Convergent Technologies Securities Litigation*,

1 108 F.R.D. 328, 338-339 (N.D.Cal.,1985). Notably Blakeman intends to pursue
2 Rule 56 motions as there appears to be no evidence supporting the causes of action
3 against him. It also appears that there is a lack of evidence to even support
4 probable cause to pursue an action against him and a Rule 11 motion is likewise
5 being considered. The discovery is thus also intended to ferret out what appears to
6 be baseless character assassination.

7 *In re Convergent Technologies Securities Litigation* recognized the
8 importance of the identification of witnesses as a type of contention interrogatory
9 that is appropriate. (Id. 108 F.R.D. at 332-333). This case, often cited for the
10 frame work it provides related to contention interrogatories, also noted that the
11 frame work does not apply to the identity of witnesses with knowledge of the facts
12 giving rise to the litigation or documents supporting material factual allegations.
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25 identify facts, documents, and witnesses should count as separate interrogatories.
26 See, e.g., *Makaeff v. Trump Univ., LLC*, 2014 WL 3490356, at *7 (S.D. Cal. July
27 11, 2014) (concluding the interrogatory "contains 3 discrete subparts [for facts,
28 documents, and witnesses,] and these subparts must be multiplied by the number of

1 RFAs that were not unqualified admissions"); *Superior Commc'ns v. Earhugger, Inc.*, 257 F.R.D. 215, 218 (C.D. Cal. 2009) (request for facts, persons, and documents constitutes three distinct interrogatories); *Hasan v. Johnson*, 2012 U.S. Dist. LEXIS 21578, 13-14 (E.D. Cal. Feb. 21, 2012) (same).

5 Mr. Blakeman's attempt to subvert the rules by asking interrogatories containing multiple impermissible subparts is wholly improper and therefore 6 Plaintiffs' objection on this ground was appropriate.

8 3. Information Outside Plaintiff's Knowledge

9 Plaintiffs adamantly deny Mr. Blakeman's insinuation that they or their 10 counsel have violated Fed. R. Civ. Proc. 11 regarding the identification of 11 witnesses to support their allegations. To the contrary, Plaintiffs have identified in 12 their October 2, 2016, supplemental disclosures 105 witnesses who may possess 13 knowledge of the allegations. Moreover, discovery in this matter is in its infancy. 14 To the extent Plaintiffs identify additional witnesses who support their claims 15 throughout the course of discovery in this matter, Plaintiffs are aware of their 16 obligation under the Federal Rules to timely supplement their discovery and 17 disclosures.

18 Plaintiffs' objection on the grounds that the interrogatories seek information 19 outside their knowledge is an objection *only to the extent* that the information 20 sought is outside the individually-responding Plaintiff's knowledge. Although 21 Plaintiffs neglected to include the words "to the extent that" preceding these 22 written objections, that is the objection that Plaintiffs assert. Plaintiffs can amend 23 their objections to include this wording, if the Court so orders.

24 4. Attorney-Client Privilege and Attorney Work Product Doctrine

25 Plaintiffs objected to the interrogatories *to the extent that* they invade the 26 attorney-client privilege and/or the work product doctrine by compelling privileged 27 communication and/or litigation strategy. These objections are worded such that 28 either the attorney-client privilege or the attorney work product doctrine (or both)

1 could protect the information from disclosure. The objections do not state that
2 both privileges necessarily apply to each piece of information sought.

3 Furthermore, Plaintiffs do not claim that all information sought is privileged,
4 as evidenced by the inclusion of "to the extent that" preceding these objections.
5 Rather, Plaintiffs have applied the work product doctrine to protect trial
6 preparation materials that reveal attorney strategy, intended lines of proof,
7 evaluations of strengths and weaknesses, and inferences drawn from interviews.
8 Fed. R. Civ. Proc. 26(b)(3); *Hickman v. Taylor*, 329 U. S. 495, 511 (1947).
9 Plaintiffs have applied the attorney-client privilege to protect confidential
10 communications with their counsel. *United States v. Graf*, 610 F. 3d 1148, 1156
11 (9th Cir. 2010).

12 5. Premature Contention Interrogatories

13 Plaintiffs objected to Mr. Blakeman's interrogatories as premature because
14 they seek or necessarily rely upon a contention. Fed. R. Civ. P. 33(a)(2); *Kmiec v.*
15 *Powerwave Techs. Inc.*, et al., 2014 WL 11512195 (C.D. Cal Dec. 2, 2014) at *1;
16 *Folz v. Union Pacific Railroad Company*, 2014 WL 357929 (S.D. Cal. Jan. 31,
17 2014) at *1-2. This objection was proper.

18 Contention interrogatories need not be answered until discovery is
19 "substantially complete." See Fed. R. Civ. P. 33(a)(2). In *Kmiec*, the court held
20 that discovery was not "substantially complete" when the discovery cutoff was 4
21 months away and depositions of fact witnesses or defendants had not yet occurred.
22 The court opined that "[i]f Defendants had completed their document production,
23 depositions were under way, and the discovery cutoff date was just a month or so
24 away, Defendants **might** be entitled to the information they seek. But under the
25 circumstances here, Defendants' interrogatories are premature." *Kmiec*, at *1
26 (emphasis added).

27 Similarly, the *Folz* court found that discovery was not substantially complete
28 and the responding party had adequate time to supplement his answers when the

1 discovery cutoff was 8 months away. *Folz*, at *3. Even the case Mr. Blakeman
2 cited, *HTC Corp. v. Tech. Properties Ltd.*, 2011 WL 97787 (N.D. Cal. Jan. 12,
3 2011), held that the responding party did not need to respond to contention
4 interrogatories because discovery was "still in full-swing." *HTC Corp.*, at *3.

5 In the instant lawsuit, the discovery cutoff is more than 9 months away, on
6 August 7, 2017. None of the individual Defendants – including Mr. Blakeman –
7 have produced any documents despite Plaintiffs' requests for production, and
8 Plaintiff Cory Spencer only produced his first set of documents on November 4,
9 2016. Additionally, the parties have only taken 6 out of the 20 possible
10 depositions – Jeff Kepley, Cory Spencer, Diana Milena Reed, Angelo Ferrara,
11 Anton Dahlerbruch, and Mr. Blakeman – all of which took place within the last
12 month. Thus, it is clear that the parties are in the early stages of discovery.
13 Discovery is far from being "substantially complete"; therefore, Plaintiffs need not
14 respond to Defendant Blakeman's premature contention interrogatories.

15 **DOCUMENT REQUESTS**

16 Please identify and produce:

17 1. Any and all DOCUMENTS that support your contention that any
18 BRANT BLAKEMAN participated in any way in the "commission of enumerated
19 'predicate crimes'" as alleged in paragraph 5 of the Complaint.

20 **Plaintiffs' Response to Document Request #1**

21 Responding Party objects to this request for production as premature.
22 Because this request for production necessarily relies upon a contention, and
23 because this matter is in its early stages and pretrial discovery has only just begun,
24 Responding Party is unable to provide a complete response at this time, nor is
25 required to do so. *See Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
26 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
27 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

28 Responding Party further objects to this request on the grounds that it

1 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with
2 reasonable particularity each item or category of items to be inspected.”
3 Propounding Party’s request for production do not describe an item or category of
4 items with reasonable particularity.

5 Responding Party further objects to the extent that this request for
6 production invades attorney-client privilege and/or violates the work product
7 doctrine by compelling Responding Party to disclose privileged communications
8 and/or litigation strategy. Responding Party will not provide any such information.

9 Subject to and without waiver of the foregoing objections, Responding party
10 responds as follows:

11 Responding Party will produce all responsive documents within its
12 possession, custody, or control.

13 **Defendant Brant Blakeman’s Contention**

14 The production request seeks documents that support plaintiff’s specific
15 contention made against Brant Blakeman in his personal capacity, not as a member
16 of a group but as an individual. No documents have been produced despite the
17 response’s assertion that responsive documents would be produced in response to
18 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

19 Failure to produce the information sought by the Request is intended only to
20 prejudice Mr. Blakeman’s defenses; especially in light of the fact that plaintiffs are
21 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to
22 take while he is unprepared in his defense to plaintiffs’ contentions against him.

23 The objections made in this response are largely without merit and it is
24 unknown if any information is being withheld based on the objections. If
25 responsive material is being withheld based on any such objection, the response
26 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
27 part of the request being objected to. (Ibid.) No such indication is made in the
28 response.

1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is
5 premature on the same basis as it relates to contentions. The response cites to the
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
7 "contention" production requests. To the contrary, the Court in *In re Convergent*
8 *Technologies Securities Litigation* expressly noted that the analysis applied to
9 when contention interrogatories needed be answered does not apply to production
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for
12 documents that bear on material factual allegations."]). The request at issue here
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.
14 Material facts are discoverable at the outset of litigation and these facts are
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of
18 police records related to the subject matter of this lawsuit. In initial disclosures
19 Plaintiffs have identified hundreds of witnesses and copious documents that
20 purportedly support their case. There is no basis in law for plaintiff to not now, at
21 this phase of discovery in the litigation, not identify those specific documents that
22 support any specific liability contentions as it applies to Mr. Blakeman as an
23 individual. He is entitled to know precisely each liability contention - and any
24 documents that support such contention - that is being made against him so that he
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

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28 ///

1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14
15 2. Any and all DOCUMENTS that support your contention in paragraph
16 7 of the Complaint that BRANT BLAKEMAN "is responsible in some manner for
17 the Bane Act violations and public nuisance described in the Complaint."

18 **Plaintiffs' Response to Document Request #2**

19 Responding Party objects to this request for production as premature.
20 Because this request for production necessarily relies upon a contention, and
21 because this matter is in its early stages and pretrial discovery has only just begun,
22 Responding Party is unable to provide a complete response at this time, nor is
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
24 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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1 Responding Party further objects to this request on the grounds that it
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with
3 reasonable particularity each item of category of items to be inspected.”
4 Propounding Party’s request for production do not describe an item or category of
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for
7 production invades attorney-client privilege and/or violates the work product
8 doctrine by compelling Responding Party to disclose privileged communications
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party
11 responds as follows:

12 Responding Party will produce all responsive documents within its
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s contentions
16 against Brant Blakeman in his personal capacity and specifically, not as a member
17 of a group but as an individual. No documents have been produced despite the
18 response’s assertion that responsive documents would be produced in response to
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is
25 unknown if any information is being withheld based on the objections. If
26 responsive material is being withheld based on any such objection, the response
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
28 ///

1 part of the request being objected to. (*Ibid.*) No such indication is made in the
2 response.

3 Most importantly, the objections lack merit:

4 **1. The Production Request is Premature as Seeking information**
5 **Related to “Contentions”**

6 Plaintiff objects that producing the information supporting its contentions is
7 premature on the same basis as it relates to contentions. The response cites to the
8 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
9 "contention" production requests. To the contrary, the Court in *In re Convergent*
10 *Technologies Securities Litigation* expressly noted that the analysis applied to
11 when contention interrogatories needed be answered does not apply to production
12 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
13 ["Nor do the generalizations articulated here apply to Rule 34 requests for
14 documents that bear on material factual allegations."]). The request at issue here
15 bears on material factual allegations plaintiff has made against Mr. Blakeman.
16 Material facts are discoverable at the outset of litigation and these facts are
17 certainly not ones that would be in the control of defendant.

18 Plaintiffs have had an opportunity through informal requests from the City of
19 Palos Verdes and in discovery in this litigation to obtain literally thousands of
20 police records related to the subject matter of this lawsuit. In initial disclosures
21 Plaintiffs have identified hundreds of witnesses and copious documents that
22 purportedly support their case. There is no basis in law for plaintiff to not now, at
23 this phase of discovery in the litigation, not identify those specific documents that
24 support any specific liability contentions as it applies to Mr. Blakeman as an
25 individual. He is entitled to know precisely each liability contention - and any
26 documents that support such contention - that is being made against him so that he
27 may appropriately defend against them.

28 The objection wholly lacks merit and should be removed.

1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14

15 3. Any and all DOCUMENTS that support your contention in paragraph
16 18 of the Complaint that BRANT BLAKEMAN "sell[s] market[s] and use[s]
17 illegal controlled substances from the Lunada Bay Bluffs and the Rock Fort."

18 **Plaintiffs' Response to Document Request #3**

19 Responding Party objects to this request for production as premature.
20 Because this request for production necessarily relies upon a contention, and
21 because this matter is in its early stages and pretrial discovery has only just begun,
22 Responding Party is unable to provide a complete response at this time, nor is
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
24 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

26 Responding Party further objects to this request on the grounds that it
27 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with
28 reasonable particularity each item of category of items to be inspected."

1 Propounding Party's request for production do not describe an item or category of
2 items with reasonable particularity.

3 Responding Party further objects to the extent that this request for
4 production invades attorney-client privilege and/or violates the work product
5 doctrine by compelling Responding Party to disclose privileged communications
6 and/or litigation strategy. Responding Party will not provide any such information.

7 Subject to and without waiver of the foregoing objections, Responding party
8 responds as follows:

9 Responding Party will produce all responsive documents within its
10 possession, custody, or control.

11 **Defendant Brant Blakeman's Contention**

12 The production request seeks documents that support plaintiff's specific
13 contention made against Brant Blakeman in his personal capacity, not as a member
14 of a group but as an individual. No documents have been produced despite the
15 response's assertion that responsive documents would be produced in response to
16 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

17 Failure to produce the information sought by the Request is intended only to
18 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
19 pressing for Mr. Blakeman's deposition for which they are purposely hoping to
20 take while he is unprepared in his defense to plaintiffs' contentions against him.

21 The objections made in this response are largely without merit and it is
22 unknown if any information is being withheld based on the objections. If
23 responsive material is being withheld based on any such objection, the response
24 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
25 part of the request being objected to. (Ibid.) No such indication is made in the
26 response.

27 ///

28 ///

1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is
5 premature on the same basis as it relates to contentions. The response cites to the
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
7 "contention" production requests. To the contrary, the Court in *In re Convergent*
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9 when contention interrogatories needed be answered does not apply to production
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for
12 documents that bear on material factual allegations."]). The request at issue here
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.
14 Material facts are discoverable at the outset of litigation and these facts are
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of
18 police records related to the subject matter of this lawsuit. In initial disclosures
19 Plaintiffs have identified hundreds of witnesses and copious documents that
20 purportedly support their case. There is no basis in law for plaintiff to not now, at
21 this phase of discovery in the litigation, not identify those specific documents that
22 support any specific liability contentions as it applies to Mr. Blakeman as an
23 individual. He is entitled to know precisely each liability contention - and any
24 documents that support such contention - that is being made against him so that he
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

27 ///

28 ///

1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

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15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
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26 document requests based on the premature nature of the requests, their lack of
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7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14
15 4. Any and all DOCUMENTS that support your contention in paragraph
16 18 of the Complaint that BLAKE BRANTMAN "impede[d] boat traffic" at any
17 time.

18 **Plaintiffs' Response to Document Request #4**

19 Responding Party objects to this request for production as premature.
20 Because this request for production necessarily relies upon a contention, and
21 because this matter is in its early stages and pretrial discovery has only just begun,
22 Responding Party is unable to provide a complete response at this time, nor is
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
24 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

26 Responding Party further objects to this request on the grounds that it
27 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with
28 reasonable particularity each item of category of items to be inspected."

1 Propounding Party's request for production do not describe an item or category of
2 items with reasonable particularity.

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10 possession, custody, or control.

11 **Defendant Brant Blakeman's Contention**

12 The production request seeks documents that support plaintiff's specific
13 contention made against Brant Blakeman in his personal capacity, not as a member
14 of a group but as an individual. No documents have been produced despite the
15 response's assertion that responsive documents would be produced in response to
16 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

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18 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
19 pressing for Mr. Blakeman's deposition for which they are purposely hoping to
20 take while he is unprepared in his defense to plaintiffs' contentions against him.

21 The objections made in this response are largely without merit and it is
22 unknown if any information is being withheld based on the objections. If
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24 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
25 part of the request being objected to. (Ibid.) No such indication is made in the
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27 ///

28 ///

1 Most importantly, the objections lack merit:

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10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for
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13 bears on material factual allegations plaintiff has made against Mr. Blakeman.
14 Material facts are discoverable at the outset of litigation and these facts are
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of
18 police records related to the subject matter of this lawsuit. In initial disclosures
19 Plaintiffs have identified hundreds of witnesses and copious documents that
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21 this phase of discovery in the litigation, not identify those specific documents that
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23 individual. He is entitled to know precisely each liability contention - and any
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25 may appropriately defend against them.

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3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14
15 5. Any and all DOCUMENTS that support your contention in paragraph
16 18 of the Complaint that BLAKE BRANTMAN "dangerously disregard[ed]
17 surfing rules" at any time.

18 **Plaintiffs' Response to Document Request #5**

19 Responding Party objects to this request for production as premature.
20 Because this request for production necessarily relies upon a contention, and
21 because this matter is in its early stages and pretrial discovery has only just begun,
22 Responding Party is unable to provide a complete response at this time, nor is
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
24 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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1 Responding Party further objects to this request on the grounds that it
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with
3 reasonable particularity each item of category of items to be inspected.”
4 Propounding Party’s request for production do not describe an item or category of
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for
7 production invades attorney-client privilege and/or violates the work product
8 doctrine by compelling Responding Party to disclose privileged communications
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party
11 responds as follows:

12 Responding Party will produce all responsive documents within its
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s specific
16 contention made against Brant Blakeman in his personal capacity, not as a member
17 of a group but as an individual. No documents have been produced despite the
18 response’s assertion that responsive documents would be produced in response to
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is
25 unknown if any information is being withheld based on the objections. If
26 responsive material is being withheld based on any such objection, the response
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
28 ///

1 part of the request being objected to. (*Ibid.*) No such indication is made in the
2 response.

3 Most importantly, the objections lack merit:

4 **1. The Production Request is Premature as Seeking information**
5 **Related to “Contentions”**

6 Plaintiff objects that producing the information supporting its contentions is
7 premature on the same basis as it relates to contentions. The response cites to the
8 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
9 "contention" production requests. To the contrary, the Court in *In re Convergent*
10 *Technologies Securities Litigation* expressly noted that the analysis applied to
11 when contention interrogatories needed be answered does not apply to production
12 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
13 ["Nor do the generalizations articulated here apply to Rule 34 requests for
14 documents that bear on material factual allegations."]). The request at issue here
15 bears on material factual allegations plaintiff has made against Mr. Blakeman.
16 Material facts are discoverable at the outset of litigation and these facts are
17 certainly not ones that would be in the control of defendant.

18 Plaintiffs have had an opportunity through informal requests from the City of
19 Palos Verdes and in discovery in this litigation to obtain literally thousands of
20 police records related to the subject matter of this lawsuit. In initial disclosures
21 Plaintiffs have identified hundreds of witnesses and copious documents that
22 purportedly support their case. There is no basis in law for plaintiff to not now, at
23 this phase of discovery in the litigation, not identify those specific documents that
24 support any specific liability contentions as it applies to Mr. Blakeman as an
25 individual. He is entitled to know precisely each liability contention - and any
26 documents that support such contention - that is being made against him so that he
27 may appropriately defend against them.

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1 The objection wholly lacks merit and should be removed.

2 **2. The Request Fails to Identify with Reasonable Particularity the**
3 **Item to be Inspected**

4 To the contrary, the Request is quite particular. It seeks documents that
5 support a specific allegation made in the complaint against Mr. Blakemen. Who
6 better to determine what documents support this pled contention than the plaintiffs
7 making the allegations?

8 The objection wholly lacks merit and should be removed.

9 **3. The Request invades the Attorney Client Privilege and Attorney**
10 **Work Product Doctrine**

11 The Request seeks documents that support plaintiff's material allegations
12 made against Mr. Blakeman. It does not seek communication with plaintiffs'
13 counsels, it does not seek information that is work product. If plaintiffs intend to
14 use documents offensively against Mr. Blakeman they cannot withhold such under
15 the cloak of a privilege.

16 **Plaintiffs' Contention**

17 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
18 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
19 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
20 for Production of Documents. Despite these productions, Mr. Blakeman has
21 insisted on moving forward with this motion to compel, yet has altogether failed to
22 identify any deficiencies or issues with these productions.

23 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
24 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
25 Plaintiffs are entitled to preserve their objections in their discovery responses under
26 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
27 document requests based on the premature nature of the requests, their lack of
28 reasonable particularity, and the attorney-client privilege and/or attorney work

1 product doctrine.

2 Plaintiffs are also entitled to – and fully intend to – supplement their
3 discovery responses when they "learn[] that in some material respect the disclosure
4 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
5 precisely what Plaintiffs did when they produced documents on November 17,
6 2016. Plaintiffs intend to continue to supplement their document production as
7 necessary, consistent with the Rules.

8 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
9 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
10 Blakeman even earlier – prior to having produced any documents – so long as
11 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
12 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
13 than five months after Plaintiffs filed the Complaint, is without any prejudice to
14 Mr. Blakeman.

15

16 6. Any and all DOCUMENTS that support your contention that BLAKE
17 BRANTMAN has illegally extorted month from beachgoers who wish to use
18 Lumada Bay for recreational purposes. (See paragraph 33j. of the Complaint.)

19 **Plaintiffs' Response**

20 Responding Party objects to this request for production as premature.
21 Because this request for production necessarily relies upon a contention, and
22 because this matter is in its early stages and pretrial discovery has only just begun,
23 Responding Party is unable to provide a complete response at this time, nor is
24 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
25 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
26 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

27 Responding Party further objects to this request on the grounds that it
28 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with

1 reasonable particularity each item of category of items to be inspected.”
2 Propounding Party’s request for production do not describe an item or category of
3 items with reasonable particularity.

4 Responding Party further objects to the extent that this request for
5 production invades attorney-client privilege and/or violates the work product
6 doctrine by compelling Responding Party to disclose privileged communications
7 and/or litigation strategy. Responding Party will not provide any such information.

8 Subject to and without waiver of the foregoing objections, Responding party
9 responds as follows:

10 Responding Party will produce all responsive documents within its
11 possession, custody, or control.

12 **Defendant Brant Blakeman’s Contention**

13 The production request seeks documents that support plaintiff’s specific
14 contention made against Brant Blakeman in his personal capacity, not as a member
15 of a group but as an individual. No documents have been produced despite the
16 response’s assertion that responsive documents would be produced in response to
17 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

18 Failure to produce the information sought by the Request is intended only to
19 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
20 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to
21 take while he is unprepared in his defense to plaintiffs’ contentions against him.

22 The objections made in this response are largely without merit and it is
23 unknown if any information is being withheld based on the objections. If
24 responsive material is being withheld based on any such objection, the response
25 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
26 part of the request being objected to. (Ibid.) No such indication is made in the
27 response.

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1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is
5 premature on the same basis as it relates to contentions. The response cites to the
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
7 "contention" production requests. To the contrary, the Court in *In re Convergent*
8 *Technologies Securities Litigation* expressly noted that the analysis applied to
9 when contention interrogatories needed be answered does not apply to production
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for
12 documents that bear on material factual allegations."]). The request at issue here
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.
14 Material facts are discoverable at the outset of litigation and these facts are
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of
18 police records related to the subject matter of this lawsuit. In initial disclosures
19 Plaintiffs have identified hundreds of witnesses and copious documents that
20 purportedly support their case. There is no basis in law for plaintiff to not now, at
21 this phase of discovery in the litigation, not identify those specific documents that
22 support any specific liability contentions as it applies to Mr. Blakeman as an
23 individual. He is entitled to know precisely each liability contention - and any
24 documents that support such contention - that is being made against him so that he
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

27 ///

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1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14

15 7. Any and all DOCUMENTS that support your contention that BLAKE
16 BRANTMAN was a part of a Civil Conspiracy as identified in your complaint in
17 paragraphs 51 through 53.

18 **Plaintiffs' Response to Document Request #7**

19 Responding Party objects to this request for production as premature.
20 Because this request for production necessarily relies upon a contention, and
21 because this matter is in its early stages and pretrial discovery has only just begun,
22 Responding Party is unable to provide a complete response at this time, nor is
23 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
24 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
25 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

26 Responding Party further objects to this request on the grounds that it
27 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to "describe with
28 reasonable particularity each item of category of items to be inspected."

1 Propounding Party's request for production do not describe an item or category of
2 items with reasonable particularity.

3 Responding Party further objects to the extent that this request for
4 production invades attorney-client privilege and/or violates the work product
5 doctrine by compelling Responding Party to disclose privileged communications
6 and/or litigation strategy. Responding Party will not provide any such information.

7 Subject to and without waiver of the foregoing objections, Responding party
8 responds as follows:

9 Responding Party will produce all responsive documents within its
10 possession, custody, or control.

11 **Defendant Brant Blakeman's Contention**

12 The production request seeks documents that support plaintiff's specific
13 contention made against Brant Blakeman in his personal capacity, not as a member
14 of a group but as an individual. No documents have been produced despite the
15 response's assertion that responsive documents would be produced in response to
16 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

17 Failure to produce the information sought by the Request is intended only to
18 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
19 pressing for Mr. Blakeman's deposition for which they are purposely hoping to
20 take while he is unprepared in his defense to plaintiffs' contentions against him.

21 The objections made in this response are largely without merit and it is
22 unknown if any information is being withheld based on the objections. If
23 responsive material is being withheld based on any such objection, the response
24 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
25 part of the request being objected to. (*Ibid.*) No such indication is made in the
26 response.

27 ///

28 ///

1 Most importantly, the objections lack merit:

2 **1. The Production Request is Premature as Seeking information**
3 **Related to “Contentions”**

4 Plaintiff objects that producing the information supporting its contentions is
5 premature on the same basis as it relates to contentions. The response cites to the
6 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
7 "contention" production requests. To the contrary, the Court in *In re Convergent*
8 *Technologies Securities Litigation* expressly noted that the analysis applied to
9 when contention interrogatories needed be answered does not apply to production
10 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
11 ["Nor do the generalizations articulated here apply to Rule 34 requests for
12 documents that bear on material factual allegations."]). The request at issue here
13 bears on material factual allegations plaintiff has made against Mr. Blakeman.
14 Material facts are discoverable at the outset of litigation and these facts are
15 certainly not ones that would be in the control of defendant.

16 Plaintiffs have had an opportunity through informal requests from the City of
17 Palos Verdes and in discovery in this litigation to obtain literally thousands of
18 police records related to the subject matter of this lawsuit. In initial disclosures
19 Plaintiffs have identified hundreds of witnesses and copious documents that
20 purportedly support their case. There is no basis in law for plaintiff to not now, at
21 this phase of discovery in the litigation, not identify those specific documents that
22 support any specific liability contentions as it applies to Mr. Blakeman as an
23 individual. He is entitled to know precisely each liability contention - and any
24 documents that support such contention - that is being made against him so that he
25 may appropriately defend against them.

26 The objection wholly lacks merit and should be removed.

27 ///

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1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14
15 8. Any and all DOCUMENTS that support plaintiffs' First Cause of
16 Action in the Complaint (Bane Act Violations) against BRANT BLAKEMAN.

17 **Plaintiffs' Response to Document Request #8**

18 Responding Party objects to this request for production as premature.
19 Because this request for production necessarily relies upon a contention, and
20 because this matter is in its early stages and pretrial discovery has only just begun,
21 Responding Party is unable to provide a complete response at this time, nor is
22 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
23 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
24 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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1 Responding Party further objects to this request on the grounds that it
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with
3 reasonable particularity each item of category of items to be inspected.”
4 Propounding Party’s request for production do not describe an item or category of
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for
7 production invades attorney-client privilege and/or violates the work product
8 doctrine by compelling Responding Party to disclose privileged communications
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party
11 responds as follows:

12 Responding Party will produce all responsive documents within its
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s specific
16 contention made against Brant Blakeman in his personal capacity, not as a member
17 of a group but as an individual. No documents have been produced despite the
18 response’s assertion that responsive documents would be produced in response to
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is
25 unknown if any information is being withheld based on the objections. If
26 responsive material is being withheld based on any such objection, the response
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
28 ///

1 part of the request being objected to. (*Ibid.*) No such indication is made in the
2 response.

3 Most importantly, the objections lack merit:

4 **1. The Production Request is Premature as Seeking information**
5 **Related to “Contentions”**

6 Plaintiff objects that producing the information supporting its contentions is
7 premature on the same basis as it relates to contentions. The response cites to the
8 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
9 "contention" production requests. To the contrary, the Court in *In re Convergent*
10 *Technologies Securities Litigation* expressly noted that the analysis applied to
11 when contention interrogatories needed be answered does not apply to production
12 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
13 ["Nor do the generalizations articulated here apply to Rule 34 requests for
14 documents that bear on material factual allegations."]). The request at issue here
15 bears on material factual allegations plaintiff has made against Mr. Blakeman.
16 Material facts are discoverable at the outset of litigation and these facts are
17 certainly not ones that would be in the control of defendant.

18 Plaintiffs have had an opportunity through informal requests from the City of
19 Palos Verdes and in discovery in this litigation to obtain literally thousands of
20 police records related to the subject matter of this lawsuit. In initial disclosures
21 Plaintiffs have identified hundreds of witnesses and copious documents that
22 purportedly support their case. There is no basis in law for plaintiff to not now, at
23 this phase of discovery in the litigation, not identify those specific documents that
24 support any specific liability contentions as it applies to Mr. Blakeman as an
25 individual. He is entitled to know precisely each liability contention - and any
26 documents that support such contention - that is being made against him so that he
27 may appropriately defend against them.

28 The objection wholly lacks merit and should be removed.

1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14
15 9. Any and all DOCUMENTS that support plaintiffs' Second Cause of
16 Action in the Complaint (Public Nuisance) against BRANT BLAKEMAN.

17 **Plaintiffs' Response to Document Request #9**

18 Responding Party objects to this request for production as premature.
19 Because this request for production necessarily relies upon a contention, and
20 because this matter is in its early stages and pretrial discovery has only just begun,
21 Responding Party is unable to provide a complete response at this time, nor is
22 required to do so. See *Kmiec v. Powerwave Techs. Inc et al.* 2014 WL 11512195
23 (C.D. Cal. Dec. 2, 2014) at *1; see also *Folz v. Union Pacific Railroad Company*,
24 2014 WL 357929 (S.D. Cal. Jan. 31, 2014) at *1-2.

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1 Responding Party further objects to this request on the grounds that it
2 violates Federal Rule of Civil Procedure 34(b)(1)(A) by failing to “describe with
3 reasonable particularity each item of category of items to be inspected.”
4 Propounding Party’s request for production do not describe an item or category of
5 items with reasonable particularity.

6 Responding Party further objects to the extent that this request for
7 production invades attorney-client privilege and/or violates the work product
8 doctrine by compelling Responding Party to disclose privileged communications
9 and/or litigation strategy. Responding Party will not provide any such information.

10 Subject to and without waiver of the foregoing objections, Responding party
11 responds as follows:

12 Responding Party will produce all responsive documents within its
13 possession, custody, or control.

14 **Defendant Brant Blakeman’s Contention**

15 The production request seeks documents that support plaintiff’s specific
16 contention made against Brant Blakeman in his personal capacity, not as a member
17 of a group but as an individual. No documents have been produced despite the
18 response’s assertion that responsive documents would be produced in response to
19 Requests No. 1, 2, 3, 4, 5, 7, 8, and 9.

20 Failure to produce the information sought by the Request is intended only to
21 prejudice Mr. Blakeman's defenses; especially in light of the fact that plaintiffs are
22 pressing for Mr. Blakeman’s deposition for which they are purposely hoping to
23 take while he is unprepared in his defense to plaintiffs’ contentions against him.

24 The objections made in this response are largely without merit and it is
25 unknown if any information is being withheld based on the objections. If
26 responsive material is being withheld based on any such objection, the response
27 must so state. (See FRCP Rule 34(b)(2)(C)). The response must also specify the
28 part of the request being objected to. (Ibid.) No such indication is made in the

1 response.

2 Most importantly, the objections lack merit:

3 **1. The Production Request is Premature as Seeking information**
4 **Related to “Contentions”**

5 Plaintiff objects that producing the information supporting its contentions is
6 premature on the same basis as it relates to contentions. The response cites to the
7 *Kmeic* and *Folz* cases as authority. In fact, neither of the cases address
8 "contention" production requests. To the contrary, the Court in *In re Convergent*
9 *Technologies Securities Litigation* expressly noted that the analysis applied to
10 when contention interrogatories needed be answered does not apply to production
11 requests. (*In re Convergent Technologies Securities Litigation*, 108 F.R.D. at 333
12 ["Nor do the generalizations articulated here apply to Rule 34 requests for
13 documents that bear on material factual allegations."]). The request at issue here
14 bears on material factual allegations plaintiff has made against Mr. Blakeman.
15 Material facts are discoverable at the outset of litigation and these facts are
16 certainly not ones that would be in the control of defendant.

17 Plaintiffs have had an opportunity through informal requests from the City of
18 Palos Verdes and in discovery in this litigation to obtain literally thousands of
19 police records related to the subject matter of this lawsuit. In initial disclosures
20 Plaintiffs have identified hundreds of witnesses and copious documents that
21 purportedly support their case. There is no basis in law for plaintiff to not now, at
22 this phase of discovery in the litigation, not identify those specific documents that
23 support any specific liability contentions as it applies to Mr. Blakeman as an
24 individual. He is entitled to know precisely each liability contention - and any
25 documents that support such contention - that is being made against him so that he
26 may appropriately defend against them.

27 The objection wholly lacks merit and should be removed.

28 ///

1 2. The Request Fails to Identify with Reasonable Particularity the
2 Item to be Inspected

3 To the contrary, the Request is quite particular. It seeks documents that
4 support a specific allegation made in the complaint against Mr. Blakemen. Who
5 better to determine what documents support this pled contention than the plaintiffs
6 making the allegations?

7 The objection wholly lacks merit and should be removed.

8 3. The Request invades the Attorney Client Privilege and Attorney
9 Work Product Doctrine

10 The Request seeks documents that support plaintiff's material allegations
11 made against Mr. Blakeman. It does not seek communication with plaintiffs'
12 counsels, it does not seek information that is work product. If plaintiffs intend to
13 use documents offensively against Mr. Blakeman they cannot withhold such under
14 the cloak of a privilege.

15 Plaintiffs' Contention

16 Contrary to Defendant's contention, Plaintiffs produced 2,029 files on
17 November 4, 2016 (see Decl. Otten, **Exh. C**) and 22 files on November 17, 2016
18 (see *id.*, **Exhibit F**) containing information responsive to Mr. Blakeman's Request
19 for Production of Documents. Despite these productions, Mr. Blakeman has
20 insisted on moving forward with this motion to compel, yet has altogether failed to
21 identify any deficiencies or issues with these productions.

22 Plaintiffs' objections to Mr. Blakeman's discovery are valid. They satisfy
23 Fed. R. Civ. P. 33(b)(3)'s requirement to state the reasons for each objection.
24 Plaintiffs are entitled to preserve their objections in their discovery responses under
25 Fed. R. Civ. P. 34(b)(2)(B), as they did when they objected to Mr. Blakeman's
26 document requests based on the premature nature of the requests, their lack of
27 reasonable particularity, and the attorney-client privilege and/or attorney work
28 product doctrine.

1 Plaintiffs are also entitled to – and fully intend to – supplement their
2 discovery responses when they "learn[] that in some material respect the disclosure
3 or response is incomplete or incorrect." Fed. R. Civ. P. 26(e)(1)(A). This is
4 precisely what Plaintiffs did when they produced documents on November 17,
5 2016. Plaintiffs intend to continue to supplement their document production as
6 necessary, consistent with the Rules.

7 Further, Plaintiffs sought to depose Mr. Blakeman several months after they
8 filed the June 16, 2016 Complaint. Plaintiffs could have sought to depose Mr.
9 Blakeman even earlier – prior to having produced any documents – so long as
10 Plaintiffs gave reasonable notice to the parties per Fed. R. Civ. P. 30(b)(1).
11 Therefore, Plaintiffs' desire to depose Mr. Blakeman on November 21, 2016, more
12 than five months after Plaintiffs filed the Complaint, is without any prejudice to
13 Mr. Blakeman.

14 Pursuant to L.R. 5-4.3.4 all signatories listed below concur with the filing's
15 content and have authorized the filing of this Stipulation.

17 Dated: November 28, 2016 Respectfully Submitted

21 Dated: November 28, 2016 Respectfully Submitted

1 Dated: November 28, 2016

Respectfully Submitted

2
3
4 /s/ Peter Crossin
5 RICHARD DIEFFENBACH
6 JOHN P. WORGUL
7 PETER CROSSIN
8 Attorney for Defendant Brant Blakeman

9
10 Dated: November 28, 2016

Respectfully Submitted

11
12
13 /s/ Robert S. Cooper
14 ROBERT S. COOPER
15 Attorney for Defendant Brant Blakeman

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No.	CV 16-02129 SJO (RAOx)	Date	August 29, 2016
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Title	Cory Spencer et al v. Lunada Bay Boys et al
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Present: The Honorable	S. JAMES OTERO
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Victor Paul Cruz	Carol Zurborg
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Deputy Clerk	Court Reporter
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Tape No.

Attorneys Present for Plaintiffs:

Kurt A. Franklin
Victor J. Otten

Attorneys Present for Defendants:

Tera A. Lutz
John P. Worgul
Richard P. Dieffenbach
Peter T. Haven
Mark Fields
Edwin J. Richards, Jr.
L. William Locke

Proceedings: SCHEDULING CONFERENCE

Matter called.

Counsel for Defendant Alan Johnston is not present.

Attorney William Locke advises the Court that his firm will represent defendants Frank Ferrara and Charlie Ferrara. The Court Orders that two said defendants will file an answer to the complaint by Friday, September 2, 2016.

The parties stipulate that the Court's order of 7/11/16 shall apply to all defendants.

The Court sets the following schedule:

The filing of a Motion for Class Certification shall be Friday, December 30, 2016; Opposition shall be due by January 13, 2017; Reply due Friday, January 20, 2017; Hearing on motion shall be set for Tuesday, February 21, 2017 @ 10:00 a.m.

Jury Trial: Tuesday, November 7, 2017 @ 9:00 a.m.

Pretrial Conference: Monday, October 23, 2017 @ 9:00 a.m.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 16-02129 SJO (RAOx) Date August 29, 2016

Title Cory Spencer et al v. Lunada Bay Boys et al

Motion Cutoff: Monday, August 21, 2017 @ 10:00 a.m.

Discovery Cutoff: Monday, August 7, 2017

Last Date to Amend: Not provided

Reference of the above case to the Alternative Dispute Resolution Program is vacated.
Settlement is referred to Private Mediation for all further proceedings.

All discovery disputes are to be brought before the Magistrate Judge assigned to the case.
The parties are reminded of their obligations under Fed. R. Civ. P. 26-1(a) to disclose
information without a discovery request.

Court advises counsel that all Pretrial documents must be filed in compliance with
the Court's standing order, including but not limited to:

1. All Jury Instructions, agreed and opposed;
2. Verdict Forms;
3. Proposed Voir Dire Questions;
4. Agreed-To Statement of Case;
5. Witness List, listing each witness and time estimates to conduct direct, cross,
redirect and recross;
6. Trial Brief and Memorandum of Contentions;
7. Joint Rule 26(f) Report;
8. If Court Trial, file Findings of Fact and Conclusions of Law and summaries of
direct testimony at Pretrial Conference;
9. Motions in Limine are to be filed according to Local Rule 7 and will be heard at
9:00 a.m. the first day of trial;
10. Exhibits properly labeled, tagged, and in binders.

cc: ADR Coordinator

: 0/23

Initials of Preparer

vpc